UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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JUN 20 2005

#6

Rodney Levy
802 East Marine View Dr.
Everett, WA 98201

In re Application of :
Rodney Levy :
Application No. 10/349,791 :
Filed: January 23, 2003 :
For: L-TAIL (FEATURING PARABRAKES)

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on applicant's communications filed June 4, 2004, November 16, 2004 and March 29, 2005 which will be treated as a petition to withdraw the holding of abandonment. The delay in treating these communications is sincerely regretted.

The petition is **DISMISSED**.

A review of the file record indicates that the application was held abandoned for failure to timely file a proper response to the Office action mailed October 8, 2003, and a Notice to that effect was mailed on April 20, 2004.

Petitioner states that a response was filed on December 5, 2003 by facsimile transmission. In support thereof, petitioner has included a copy of a response. Petitioner has submitted a copy of the "Activity Report" printed from petitioner's facsimile machine. However, the "Activity Report" does not specify what was submitted.

Any petition to withdraw the holding of abandonment based upon a transmission by facsimile must include the following requirements:

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

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

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

It is recommended that any future correspondence submitted include a proper certificate of mail/transmission. See attached guide.

Applicant may wish to consider filing a petition to revive under 37 CFR 1.137(a) (unavoidable delay) or 37 CFR 1.137(b) (unintentional delay) as discussed below.

I. Unavoidable Delay.

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by: **(1)** the required reply (unless previously filed), which may be met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute; **(2)** the petition fee required by 37 CFR 1.17(l); and **(3)** an adequate showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable.

The showing requirement can be met by submission of statements of fact establishing that the delay in filing the reply was unavoidable. This includes a satisfactory showing that the cause of the delay resulting in failure to reply in a timely fashion to the Office action was unavoidable. Diligence during the time period between abandonment and filing of the petition to revive must also be shown.

As an alternative to filing a petition for unavoidable abandonment, a petition for revival of an application abandoned unintentionally under 37 CFR 1.137(b) might be appropriate.

II. Unintentional Delay.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: (1) the required reply (unless

previously filed), which may be met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute; (**2**) the petition fee required by 37 CFR 1.17(m); and (**3**) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

The petition fee required by law for filing a petition under unavoidable standard is $500. The fee for a petition under the unintentional standard is $1,500. If applicant has, or can qualify as a "small entity" and does so prior to or together with the payment of the fee, the fee will be one-half of the amount indicated.

If not previously filed, the reply to the outstanding Office action must accompany the petition to revive.

The required items should be promptly submitted under a cover letter entitled "Petition to Revive".

Further correspondence with respect to a petition to revive should be addressed as follows:

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

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

Telephone inquiries should be directed to the Office of Petitions Staff at (571) 272-3282.

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

Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(571) 272-6611

SNM/js: 6/14/05

Attachment: guide for submission of Pro Se correspondence

It appears that the applicant in this application is a *pro se* applicant (an inventor filing the application alone without the benefit of a Patent Attorney or Agent). Applicant may not be aware of the preferred methods of ensuring timely filing of responses to communications from the Office and may wish to consider using the Certificate of Mailing or the Certificate of Transmission procedures outlined below.

CERTIFICATE OF MAILING

To ensure that the Applicant's mailed response is considered timely filed, it is advisable to include a "certificate of mailing" on at least one page (preferably on the first page) of the response. This "certificate" should consist of the following statement:

> I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: "Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" on (date).
>
> (Typed or printed name of the person signing this certificate)
>
> (signature)

CERTIFICATE OF TRANSMISSION

Alternatively, if applicant wishes to respond by facsimile rather than by mail, another method to ensure that the Applicant's response is considered timely filed, is to include a "certificate of transmission" on at least one page (preferably on the first page) of the response. This method should be used by foreign applicants without access to the U.S. Postal Service. This "certificate" should consist of the following statement:

> I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. (703)___-____on (date).
>
> (Typed or printed name of the person signing this certificate)
>
> (signature)

These "Certificates" may appear anywhere on the page, and may be handwritten or typed. They must be signed, and the date must be the actual date on which it is mailed or transmitted.
For the purpose of calculating extensions of time, the date shown on the certificate will be construed as the date on which the paper was received by the Office, regardless of the date the U.S. Postal Service actually delivers the response, or the fax is "date-stamped" in. In this way, postal or transmission delays do not affect the extension-of-time fee.
In the event that a communication is not received by the Office, applicant's submission of a copy of the previously mailed or transmitted correspondence showing the **originally** signed Certificate of Mailing or Transmission statement thereon, along with a statement from the person signing the statement which attests to the timely mailing or transmitting of the correspondence, would be sufficient evidence to entitle the applicant to the mailing or transmission date of the correspondence as listed on the Certificate of Mailing or Transmission, respectively.

NOTICE TO APPLICANT: In the case of lost or late responses the use of other "receipt producing" forms of mailing a correspondence to the Patent Office, such as Certified Mail, or a private shipper such as FedEx, **WILL NOT** result in the applicant getting the benefit of the mailing date on such receipts. These receipts are not considered to be acceptable evidence since there is nothing to "tie-in" the receipt with the particular document allegedly submitted.

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Paper No. 13

RODNEY LEVY
600 E. BONANZA, #335
LAS VEGAS, NV 89101

COPY MAILED

MAR 2 0 2007

OFFICE OF PETITIONS

In re Application of Levy :
Application No. 10/349,791 : Decision on Petition
Filing Date: January 23, 20030 :
For: L-Tail (Featuring Parabrakes) :

This is a decision on the renewed petition under 37 CFR 1.181 filed February 16, 2007. The petition requests the Office withdraw the holding of abandonment of the above-identified application.

The petition is **granted.**

Timeliness:

37 CFR 1.181(f) states, with emphasis added,

> Any petition under this part not filed within two months of the mailing date of the action or notice from which relief is requested ***may*** be dismissed as untimely, except as otherwise provided. This two-month period is not extendable.

Based on the facts presented by petitioner, the Office will not treat the renewed petition as untimely.

Facts:

A non-final Office action was mailed October 8, 2003. The Office action set an extendable period of time to reply of 3 months. A reply was not received and a Notice of Abandonment was mailed April 20, 2004.

Petitioner contends a reply was filed December 1, 2003, and a copy of the reply was also filed December 5, 2003. Petitioner has submitted copies of transmission reports from the sending facsimile machine.

The transmission report does not include any indication of the nature of the pages or the application to which the papers are directed. The Office notes petitioner has filed at least 10 applications prior to December 1, 2003.

Petitioner should note, when a transmittal sheet fails to list what is being filed, the Office cannot verify if the two pages transmitted were for the instant application or for matters related to other applications or matters.

Opinion:

The Office is not responsible for verifying the two pages could not possibly have been related to matters other than the instant application. However, the Office of Petitions has reviewed all the other applications and assignment records and has not located any papers filed December 1, 2003, or December 5, 2003. Based on this investigation, and all other facts supplied by petitioner, the petition is granted.

The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Stolen records:

Copies of prior applications can be obtained by calling the PTO Office of Public records at 1-800-972-6382 or 703-308-9726. The Office of Public Records will be able to discuss the financial costs of obtaining copies.

You may be able to obtain additional information for one or both of the applications using the Office's Private PAIR system. For additional information on PAIR, you can call 1-866-217-9177 (toll free) or see http://pair-direct.uspto.gov.

Application No. 10/655,400:

A non-final Office action was mailed September 19, 2005. A reply was not received and the application became abandoned December 20, 2005.

If you did not receive the non-final Office action because it was sent to an old address, you will probably need to file a Petition under 37 CFR 1.137(b), the fee of $750, a reply to the non-final Office action mailed September 19, 2005, and a request to change the address of record.

If you have any additional questions regarding revival of application number 10/655,400, you may call Senior Petitions Attorney Patricia Faison-Ball at 571-272-3212.

The NSA:

Petitioner has expressed concern the NSA may have contacted and influenced the Office of Petitions with respect to the instant application. The undersigned assures petitioner he has never, with respect to the instant application or any matter, ever spoken with anyone from the NSA.

The next step to be taken by the USPTO:

Technology Center Art Unit 3644 will be informed of the instant decision and the examiner will consider the merits of the December 5, 2003 reply. Since the original reply is not in the file, the examiner will use the copy submitted on June 4, 2004.

Telephone inquiries regarding this specific decision may be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Attached: Copy of Office action mailed for application no. 10/655,400
Form PTO/SB/64 (Petition)
Form PTO/SB/122 (Change of Address)

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Paper No. 11

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OFFICE OF PETITIONS

Rodney Cliff Levy
802 East Marine View Drive
Everett, WA 98201

In re Application of Levy :
Application No. 10/349,791 : Decision on Petition
Filing Date: January 23, 20030 :
For: L-Tail (Featuring Parabrakes) :

This is a decision on the renewed petition under 37 CFR 1.181 filed August 18, 2005, and supplemented September 19, 2005. The petition requests the Office withdraw the holding of abandonment of the above-identified application.

The petition is **dismissed.**

A non-final Office action was mailed October 8, 2003. The Office action set an extendable period of time to reply of 3 months. A reply was not received and a Notice of Abandonment was mailed April 20, 2004.

Petitioner contends a reply was filed December 1, 2003, and a copy of the reply was also filed December 5, 2003.

Petitioner has submitted copies of transmission reports from the sending facsimile machine.

The December 1, 2003 transmission report indicates petitioner sent two pages to phone number 703-746-3790 on December 1, 2003. Effective December 1, 2003, all patent application related correspondence transmitted by facsimile was required to be sent to the central facsimile number, (703) 872-9306, with very few exceptions.[1] Since the paper was not sent to a correct facsimile number, the transmission report will not be construed as proof a paper was received by the USPTO on December 1, 2003. The Office notes the current Central FAX Number is 571-273-8300.

The December 5, 2003 transmission report indicates petitioner sent two pages to phone number 703-872-9306 on December 1, 2003. The transmission report does not include any indication of the nature of the pages or the application to which the papers are directed. The Office notes petitioner has filed at least 10 applications prior to December 1, 2003.

[1] *Centralized Delivery and Facsimile Transmission Requirements for Patent Application Related Correspondence*, 1275 Off. Gaz. Pat. Office 200 (Oct. 28, 2003).

The decision mailed June 20, 2005, stated,

> Any petition to withdraw the holding of abandonment based upon a transmission by facsimile must include the following requirements:
>
> (1) A copy of the original response bearing a signed Certificate of Transmission which includes the date of signing; and
>
> (2) A statement under 37 CFR 1.8(b)(3) attesting to the personal knowledge of transmitting the original response on the date indicated on the Certificate of Transmission.

Petitioner has not shown the original response allegedly filed December 5, 2003, included a signed Certificate of Mailing. Adding a Certificate of Transmission to a transmission report months after a response was allegedly filed does not satisfy the requirements of 37 CFR 1.8(b).

Petitioner may wish to consider filing a petition to revive based on unintentional abandonment under 37 CFR 1.137(a). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply (already submitted), the required petition fee ($250 for a small entity), and evidence the delay in filing a reply was unavoidable (already submitted). A copy of a blank petition form is enclosed for petitioner's convenience.

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 NOT permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181."

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

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

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

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: Form PTO/SB/61

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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RODNEY LEVY
600 E. BONANZA, #335
LAS VEGAS, NV 89101

COPY MAILED

DEC 0 3 2009

OFFICE OF PETITIONS

In re Application of Levy :
Application No. 10/349,791 : Decision on Petition
Filing Date: January 23, 2003 :
For: L-Tail (Featuring Parabrakes) :

This is a decision on the petition under 37 CFR 1.137(a) filed October 28, 2009, 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(a)."

Facts

The application was filed January 23, 2003.

A non-final Office action was mailed October 8, 2003. The Office action set an extendable time period for reply of 3 months. A reply was not received and a Notice of Abandonment was mailed April 20, 2004.

An Office decision mailed June 20, 2005, treated papers filed June 4, 2004, November 16, 2004, and March 29, 2005, as a petition to withdraw the holding of abandonment. The "petition" alleged a reply was timely filed in response to the October 8, 2003 Office action. The June 20, 2005 decision dismissed the "petition." A renewed petition to withdraw the holding of abandonment was filed August 18, 2005, and supplemented September 19, 2005. A decision dismissing the petition was mailed October 2, 2006.

A second renewed petition to withdraw the holding of abandonment was filed February 16, 2007. The petition stated,

> There is also another circumstance which prevents me from answering any O.A. concerning this Patent Application; all of the information concerning this Patent

> Application has been Stolen out of my possession.... I do intend to file a police report with the Las Vegas Police Dept....
>
> Can the Office of Petitions ... or another dept. of the PTO assist me in replacing the documents that were stolen [which involve the instant application and Application No. 10/655,400?]...
>
> I am very [frustrated], depressed, and astonished relative to the magnitude of the conspiracy concerning this matter....

The February 16, 2007 petition stated,

> I look very forward to a reply correspondence concerning this matter. Please take notice that I no longer live in Everett, WA.... I now reside in Las Vegas, NV. at this address:
>
> Pro Se Applicant/Inventor
> Rodney Levy PH. (425) 293-7435
> 600 E. Bonanza, #335
> Las Vegas, NV. 89101

The cover letter filed with the February 16, 2007 petition stated,

> Mail to: 600 E. Bonanza #335
> Las Vegas, NV. 89101

In response to the petition and cover letter filed February 16, 2007, the Office changed the address of record to:

> RODNEY LEVY
> 600 E. BONANZA, #335
> LAS VEGAS, NV 89101

On March 20, 2007, the Office mailed a decision granting the February 16, 2009 petition. The decision stated,

> [With respect to stolen records, copies] of prior applications can be obtained by calling the PTO Office of Public records at 1-800-972-6382 or 703-308-9726. The Office of Public Records will be able to discuss the financial costs of obtaining copies. You may be able to obtain additional information for one or both of the applications using the Office's Private PAIR system. For additional information on PAIR, you can call 1-866-217-9177 (toll free) or see http://pair-direct.uspto.gov....
>
> Technology Center Art Unit 3644 will be informed of the instant decision and the examiner will consider the merits of the December 5, 2003 reply. Since the original reply is not in the file, the examiner will use the copy submitted on June 4, 2004.

On May 3, 2007, petitioner filed a three-page letter directed towards the instant application and Application No. 10/655,400. The letter stated the following items had been stolen from petitioner since petitioner moved to Las Vegas during November 2005:

(1) Copies of Claims, Abstract, and Patent Search information for the instant application;
(2) Copies of Claims and Abstract from Application No. 10/655,400;
(3) Duplicate keys for a vehicle;
(4) Brass padlock and key;
(5) "Vin check of vehicle;"
(6) License plate of vehicle;
(7) Copy of claims and abstract for the instant application received April 27, 2007; and
(8) Copy of claims and abstract from Application No. 10/655,400 received April 27, 2007.

The May 3, 2007 letter also stated,

> I respectfully ask that all time limitations, concerning this matter be haulted, until I am able to correspond with the PTO, without being [sabotaged] by the National Security Agency [or any other party.]

The May 3, 2007 letter was placed in the record for Application No. 10/655,400. However, the Office did not make a copy to be placed in the folder for the instant application. 37 CFR 1.4(b) prohibits filing a single copy of a paper to be filed in multiple applications. Specifically, 37 CFR 1.4(b) states,

> Since each file must be complete in itself, a separate copy of every paper to be filed in a patent, patent file, or other proceeding must be furnished for each file to which the paper pertains, even though the contents of the papers filed in two or more files may be identical.

As a courtesy, the Office has now placed a copy of the May 3, 2007 paper in the file for the instant application. However, in the future, petitioner should not file a single paper addressed to multiple applications.

On August 6, 2007, the Office mailed a Notice of Non-Compliant Amendment. The August 6, 2007 Notice set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application became abandoned on November 7, 2007.

A Notice of Abandonment was mailed May 12, 2008.

The file record contains an Interview Summary form indicating the examiner and petitioner participated in a telephone conversation on October 19, 2009. The form states, "Applicant said

he did not receive the notice of non-compliance." The record indicates the examiner forwarded a copy of the Notice of Non-Compliant Amendment to petitioner on October 22, 2009.

The instant petition was filed October 28, 2009. The petition was accompanied by an amendment responding to the August 6, 2007 Notice of Non-Compliant Amendment.

The October 28, 2009 petition included the following address for petitioner:

> Rodney Levy
> 600 E. Bonanza #332
> Las Vegas, NV. 89101

Petitioner filed a request to change the address of record on November 4, 2009. Petitioner requests the Office mail future correspondence to the following address:

> 600 E. Bonanza #332
> Las Vegas, NV. 89101

Petitioner filed a supplemental amendment on November 23, 2009.

Discussion

A grantable petition under 37 CFR 1.137(a) must be accompanied by 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.

The showing of record is not sufficient to establish to the satisfaction of the Director that the delay was unavoidable within the meaning of 37 CFR 1.137(a). Therefore, the petition must be dismissed.

"[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."[1] In order for a party to prove unavoidable delay, the Office requires the party demonstrate the party exercised the "care or diligence tha[t] is generally used and observed by prudent and careful men in relation to their most important business."[2] A lack of knowledge of, or failure to understand, a PTO rule, the content of the MPEP, or an Official Gazette notice will not constitute unavoidable delay.[3]

---

[1] *Smith v. Mossinghoff*, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (1982).

[2] *In re Mattulath*, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912). *See also Ray v. Lehman*, 55 F.3d 606, 34 U.S.P.Q.2d (BNA) 1786 (Fed. Cir. 1995) (citations omitted) ("[I]n determining whether a delay in paying a maintenance fee was unavoidable, one looks to whether the party responsible for payment of the maintenance fee exercised the due care of a reasonably prudent person.")

[3] *See Smith v. Mossinghoff*, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (Fed. Cir. 1982) (*citing Potter v. Dann*, 201 U.S.P.Q. (BNA) 574 (D. D.C. 1978) for the proposition that counsel's nonawareness of PTO rules does not constitute "unavoidable" delay); *Vincent v. Mossinghoff*, 1985 U.S. Dist. LEXIS 23119, 13, 230 U.S.P.Q. (BNA)

35 U.S.C. 133 states, with emphasis added,

> 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 Director in such action, the application shall be regarded as abandoned by the parties thereto, unless it *be shown* to the satisfaction of the Director that such delay was unavoidable.

Since the statute requires a "showing" from petitioner, petitioner bears the burden of proof. Therefore, it is not enough that the delay was unavoidable; petitioner must provide sufficient evidence to "show" that the delay was unavoidable. Therefore, the issue is not whether or not the delay was unavoidable, but whether or not petitioner has shown the delay was unavoidable.

The assertions in the petition can be summed up as follows:

(1) On unspecified date after March 20, 2007, "all of the information [petitioner] needed to continue the Patenting Process was once again ... stolen;"

(2) On an unspecified date, petitioner contacted the Office to obtain another copy of the application papers;

(3) On an unspecified date, petitioner received a new copy of the application papers;

(4) The May 3, 2007 letter from petitioner informed the Office petitioner "could not attempt to get this Patent Application out of Abandonment" prior to petitioner resolving criminal issues;

(5) During March 2009, "documents were once again stolen out of [petitioner's] possession;"

The petition does not discuss several issues:

(1) The petitioner does not indicate whether or not petitioner received the August 6, 2007 Notice of Non-Compliant Brief;

(2) The petition does not indicate whether or not petitioner received the May 12, 2008 Notice of Abandonment;

(3) The petition does not identify the date petitioner first became aware of the abandoned status of the application;

---

621 (D. D.C. 1985) (Plaintiffs, through their counsel's actions, **or their own**, must be held responsible for having noted the MPEP section and Official Gazette notices expressly stating that the certified mailing procedures outlined in 37 CFR 1.8(a) do not apply to continuation applications.) (Emphasis added).

(4) Petitioner does not identify the specific dates on which application papers were stolen;

(5) Petitioner does not discuss the relevance of the theft of application papers in so far as petitioner does not show how such theft prevented petitioner from filing a timely reply or filing a petition to revive on an earlier date;

(6) Petitioner does not identify the specific date on which petitioner contacted the Office to receive a new copy of the application papers after the papers were stolen during 2007; and

(7) Petitioner does not identify the specific date on which petitioner received a new copy of the application papers after the papers were stolen during 2007.

The March 20, 2007 decision stated,

> You may be able to obtain additional information for one or both of the applications using the Office's Private PAIR system. For additional information on PAIR, you can call 1-866-217-9177 (toll free) or see http://pair-direct.uspto.gov.

The petition fails to discuss whether or not petitioner attempted to use PAIR to monitor the status of his applications.

Although petitioner provides several facts, petitioner has failed to establish how those facts prevented petitioner from filing a timely reply or from filing a petition to revive on an earlier date. As previously discussed, petitioner bears the burden of showing the entire delay in the submission of a reply to the August 6, 2007 Notice was unavoidable. In this case, petitioner has failed to provide a showing adequate to establish unavoidable delay.

If a request for reconsideration is filed, the request should fully discuss *all* relevant facts and *all* arguments petitioner wishes to be considered.

The February 16, 2007 papers indicated petitioner's street address was, with emphasis added, "600 E. Bonanza *#335*." The instant petition indicates petitioner's street address is, with emphasis added, "600 E. Bonanza *#332*." *If* the August 6, 2007 Notice and the May 12, 2008 Notice were not received, the record appears to indicate such receipt was likely the result of petitioner providing the Office with an inaccurate mailing address on February 16, 2007. If a request for reconsideration is filed, petitioner should state whether or not the unit number of petitioner's address was actually #335 when the February 16, 2007 petition was filed, and if it was his address, he should identify the exact date when he relocated to #332.

Petitioner has expressed concerns regarding government agencies interfering with his attempts to obtain a patent. For example, petitioner has indicated his ex-girlfriend was a double agent for the National Security Agency (NSA). The undersigned wishes to assure petitioner that the instant decision is not the result of pressure from any federal agency or federal employee. The undersigned has not been contacted any individual(s) concerning this case or any other matter

involving petitioner. The petition is being dismissed solely on the basis petitioner has failed to satisfy the requirements to revive the application.

If petitioner cannot provide the evidence necessary to establish unavoidable delay, or simply does not wish to, 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 ($810 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 petition under 37 CFR 1.137(b) form is enclosed for petitioner's convenience. A PDF "fillable" version of the form can be found at: http://www.uspto.gov/web/forms/sb0064.pdf.

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

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

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

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

Telephone inquiries regarding this specific decision may be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Enclosures: Petition under 37 CFR 1.137(b) form (Form PTO/SB/64)
Privacy Act Notice

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MAILED

JAN 15 2010

OFFICE OF PETITIONS

RODNEY LEVY
600 E. BONANZA, #332
LAS VEGAS, NV 89101

In re Application of Levy :
Application No. 10/349,791 : Decision on Petition
Filing Date: January 23, 2003 :
For: L-Tail (Featuring Parabrakes) :

This is a decision on the petition under 37 CFR 1.137(b) filed January 4, 2010, to revive the above-identified application.

The petition is **granted**.

On August 6, 2007, the Office mailed a Notice of Non-Compliant Amendment. The August 6, 2007 Notice set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application became abandoned on November 7, 2007. A Notice of Abandonment was mailed May 12, 2008.

The instant petition requests revival of the application.

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.

As to item (1), the Office a reply was filed October 28, 2009.

As to item (2), petitioner has submitted $810.

As to item (3), petitioner has made the required statement.

As to item (4), a terminal disclaimer is unnecessary in this case.

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.

The petition includes a request for refund of the $270 previously submitted for a petition under 37 CFR 1.137(a). Petitioner's request appears to be based on the fact the Office dismissed the petition under 37 CFR 1.137(a). The $270 fee for a petition under 37 CFR 1.137(a) is required even if the petition under 37 CFR 1.137(a) is dismissed. Therefore, the $270 will not been refunded.

Petitioner states his brother-in-law is trying to steal his inventions and requests advice. Unfortunately, the Office of Petitions is unable to provide advice concerning the issue of theft of inventions.

Technology Center Art Unit 3644 will be informed of the instant decision and the application, including the reply filed October 28, 2009, will be further examined in due course. *If* the application is not in condition to be examined on the merits because the October 28, 2009 reply fails to comply with the August 6, 2007 Notice of Non-Compliant Amendment, the Technology Center may mail a new Notice of Non-Compliant Amendment setting a new time period for reply.

Telephone inquiries regarding this specific decision may be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

10/3419806

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 1-26-06

TO SPE OF : ART UNIT 2833

SUBJECT : Request for Certificate of Correction on Patent No.: 6916199
A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within 7 days to:
Certificates of Correction Branch - PK 3-922
Palm location 7580 - Tel. No. 305-8309

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

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:

P. AUSTIN BRADLEY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

P. Bradley
SPE

2833
Art Unit

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Alexandria, VA 22313-1450
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SCULLY, SCOTT, MURPHY & PRESSER
400 GARDEN CITY PLAZA
SUITE 300
GARDEN CITY, NY 11530

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APR 7 2006
OFFICE OF PETITIONS

In re Application of :
Marrelli : DECISION ON PETITION
Application No. 10/349,803 :
Filed: January 23, 2003 :
Atty. Dkt. No.: 073033.0104 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed March 8, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned July 16, 2005 for failure to timely reply to the non-final Office action mailed April 15, 2005. The non-final Office action set a three (3) month shortened statutory period of time for reply. No petition for extension of time in accordance with 37 C.F.R. § 1.136 was timely submitted. Notice of Abandonment was mailed November 14, 2005.

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

The instant petition has been reviewed and found in compliance with the provisions of 37 C.F.R. § 1.137(b). Accordingly, the failure to timely submit a proper reply to the non-final Office action is accepted as having been unintentionally delayed.

This application will be forwarded to Technology Center 1700 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

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MARK A. LITMAN & ASSOCIATES, P.A.
YORK BUSINESS CENTER, SUITE 205
3209 WEST 76TH ST.
EDINA MN 55435

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OCT 2 8 2004
OFFICE OF PETITIONS

In re Application of	:	
Law et al.	:	
Application No. 10/349,811	:	DECISION DISMISSING
Filed: 22 January, 2003	:	PETITION
Atty Docket No. 3216.48US01	:	

This is a decision on the petition under 37 CFR 1.78(a)(6), filed on 24 November, 2003, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of nine (9) prior-filed provisional applications.

The petition is **DISMISSED AS MOOT**.

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after 29 November, 2000.

Along with the instant petition under 37 CFR 1.78(a)(6), petitioner has submitted an amendment to the first sentence of the specification following the title to include a reference to the prior-filed provisional applications.

The instant pending nonprovisional application was filed on 31 July, 2001, within twelve months of the filing date of the prior provisional applications. While a reference to the prior-filed applications was not included in an ADS or in the first sentence of the specification following the title, reference nevertheless was made in the declaration filed on 22 January, 2003.

The current procedure where a claim for priority under 37 CFR 1.78(a)(3) and 1.78(a)(6) is not included in the first sentence of the specification or in an ADS but does appear either in the oath or declaration or a transmittal letter filed with the application and the Office notes the claim for priority, no petition will be required to accept a late claim for priority.

This is because the application would have been scheduled for publication on the basis of the information concerning the claim submitted elsewhere in the application within the time period set forth in 37 CFR 1.78(a)(2)(ii) and 1.78(a)(5)(ii). However, on the other hand, if the USPTO does not note the claim for priority to the prior-filed application(s) set forth in the oath or declaration or transmittal letter submitted with the application, a petition will be required to accept a late claim for priority under 37 CFR 1.78(a)(3) and 1.78(a)(6).[1] In the instant case, the Office noted the claim for priority of the prior-filed applications in the declaration filed in the application, as shown by its inclusion on the filing receipt. A replacement filing receipt is enclosed for petitioners' reference.

In view of the above, the $1,330.00 petition fee submitted is unnecessary. The petition fee will be credited to counsel's deposit account, No. 16-0631, as authorized in the present petition.

Any questions concerning this decision on petition may be directed to Senior Petitions Attorney Douglas I. Wood at 571.272.3231. All other inquiries concerning either the examination process or status of the application should be directed to the Technology Center.

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 application will be mailed solely to the address of record.

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[1] *Note* MPEP 201.11 (V), page 200-75 (Rev. 1. Feb. 2004 and 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

Application No. 10/349,811

The examiner of Technology Center AU 1756 will take appropriate action on the amendment filed on 30 June, 2004, including consideration of the claim under 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5) of the claim for benefit of the prior-filed applications.

Frances Hicks

Frances M. Hicks
Lead Paralegal
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Patterson, Thente, Skarr & Christensen, P.A.
4800 IDS Center
80 South 8th Street
Minneapolis MN 55402-2100

cf: Filing Receipt

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GOODWIN PROCTER LLP
DAVID GARROD PH D ESQ
599 LEXINGTON AVENUE
NEW YORK NY 10022

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OFFICE OF PETITIONS

In re Application of :
Harmon et al. :
Application No. 10/349,831 : DECISION ON PETITION
Filed: 22 January, 2003 :
For: HYPERCONTACTING :

This is a decision on the petition filed on 23 September, 2005, under 37 CFR 1.137(b),[1] to revive the above-identified application.

---

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

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continuing examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application, abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

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

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

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

The petition is **GRANTED**.

The application became abandoned on 21 January, 2005, for failure to timely reply to the non-final Office action mailed on 20 October, 2004, which set a three (3) month shortened statutory period for reply. No extensions of time under 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 5 May, 2005.

Petitioner has filed an amendment and excess claim fee as the required reply.

This application is being referred to Technology Center 2800 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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JAN 11 2007

OFFICE OF PETITIONS

GOODWIN PROCTER LLP
DAVID GARROD PH D ESQ
599 LEXINGTON AVENUE
NEW YORK, NY 10022

In re Application of :
Eric Harmon, et al. :
Application No. 10/349,831 : ON PETITION
Filed: January 22, 2003 :
Attorney Docket No. L3176-008 :

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

The petition is **GRANTED**.

The application became abandoned for failure to pay the issue fee on or before March 15, 2006. A Notice of Abandonment was mailed on June 14, 2006. On August 1, 2006, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the requisite issue/publication fee; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay.

The application is being referred to the Office of Publications to be processed into a patent.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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JAMES S. KEDDIE, Ph.D
BOZICEVIC, FIELD & FRANCES LLP
1900 UNIVERSITY AVENUE, SUITE 200
EAST PALO ALTO, CALIFORNIA 94303

In re Application of	:
LIAW	:
Serial No.: 10/349,838	: PETITION DECISION
Filed: 22 JANUARY 2003	:
Attorney Docket No.: AREN-063	:

This is in response to the petition under 37 CFR 1.144, filed 12 January 2007, requesting review and reconsideration of an Examiner's decision to withdraw claims 25-30 from examination.

BACKGROUND

A review of the file history shows that this application was filed on 22 January 2003, under 35 U.S.C. 111(a). The examiner mailed to applicants on 3 September 2004, requiring restriction between polypeptide and polynucleotide and including rationale establishing the examiner's position.

On 20 December 2004, Applicants elected Group I, polypeptide of SEQ ID No 26, which encompassed claims 1-6 and 9-13, without traverse.

On 7 March 2005, the examiner mailed an Office action acknowledging the election of Group I without traversal. Claims 1-6 and 9-13 were rejected under 35 USC 101 and 112 first paragraph.

A response to the Office action was filed on 12 September 2005 accompanied by an amendment which added new claims 14-23. Claims 14-22 were rejected under 35 USC 101 and 112 first paragraph and the action was made FINAL.

On 31 March 2006, the examiner mailed to applicants a non-final action to address claim 23, which had been overlooked during the preparation of the Office action mailed 12 September 2005. Claims 14-23 were rejected under 35 USC 112 first paragraph and under 35 USC 102(b) in view of Tao et al.

On 29 September 2006, applicants filed a response which included an amendment to enter new claims 24-30, which depended upon and required all the limitations of claim 23. However, the examiner withdrew claims 25-30 from examination as being directed to a screening method.

Claims 23-25 are reproduced below.

23. (Currently amended) A process for making a recombinant host cell comprising the steps of:

(a) transfecting ~~the~~ an expression vector ~~of claim 21~~ comprising a polynucleotide encoding a G protein-coupled receptor comprising a non-endogenous, constitutively activated version of human FSHR having a substitution of leucine at amino acid position 460 for an arginine residue, wherein the polynucleotide is operably linked to a promoter, into a suitable host cell; and

(b) culturing the host cell under conditions which allow expression of the G protein-coupled receptor from the expression vector.

24. (New) A recombinant host cell made according to the process of claim 23.

25. (New) A screening assay composition for identifying a candidate compound as an agonist of a G protein-coupled receptor comprising a non-endogenous, constitutively activated version of human FSHR having a substitution of leucine at amino acid position 460 for an arginine residue, wherein said composition comprises:

(a) a recombinant host cell as set forth in claim 24 or membrane thereof comprising the G protein-coupled receptor; and

(b) the candidate compound, wherein the candidate compound is non-peptidic;

wherein the non-peptidic agonist of human FSHR that is1-[(2-Oxo-6-pentyl-2H pyran)-3-carbonyl]-piperidine-2-carboxylic acid-3-(9-ethylcarbazolyl) amide has greater efficacy for the non-endogenous, constitutively activated version of human FSHR than for human FSHR.

Claims 23-24 were rejected under 35 USC 112, second paragraph and under 35 USC 102(b) in view of Tao et al. The action was made FINAL.

Applicants filed this petition on 12 January 2007, requesting review and reconsideration of withdrawn claims 25-30.

DISCUSSION

MPEP 803 sets forth the two criteria for a proper requirement for restriction between patentably distinct inventions:

> (A) The inventions must be independent (see MPEP § 802.01, § 806.06, § 808.01) or distinct as claimed (see MPEP § 806.05 - § 806.05(j)); and
>
> (B) There would be a serious burden on the examiner if restriction is not required (see MPEP § 803.02, § 808, and § 808.02).

Because the Office has already searched and examined claim 23 in the Office action mailed 31 March 2006, the examiner cannot now withdraw dependent claims 25-30, which ultimately dependent claim 23, from consideration. Claims 25-30 are directed to a composition comprising the recombinant host cell of claim 24, which depends upon claim 23. Claims 25-30 not directed to a screening method that uses the recombinant host cell of claim 24. The amendment filed 29 September 2006 did not change the scope of the claims such that the amended claims are patentable distinct from the claims already under examination. Nor was the addition of new claims 25-30 sufficient grounds to prompt a new restriction requirement, because claims 25-30 depend from and merely add further required limitations of claim 23 which had already been examined in the Office action mailed 31 March 2006.

DECISION

The petition is **GRANTED** for the reasons set forth above.

Claims 25-30 are rejoined with claims 23 and 24 and will be examined together. The finality of the Office action mailed 22 December 2006 has been withdrawn.

The application will be forwarded to the examiner for further action consistent with this decision.

Should there be any questions about this decision, please contact Quality Assurance Specialist/Program Manager Julie Burke, by letter addressed to Director, Technology Center 1600, at the address listed above, or by telephone at 571-272-1600 or by facsimile sent to the general Office facsimile number, 571-273-8300.

John LeGuyader
Director, Technology Center 1600

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Paper No. 5

Benjamin Aaron Adler
Adler & Associates
8011 Candle Lane
Houston, TX 7701

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DEC 17 2003

OFFICE OF PETITIONS

In re Application of
Angus M. Macnicol
Application No. 10/349,852
Filed: January 23, 2003
Attorney Docket No. D6442

DECISION GRANTING PETITION

This is a decision on the petition filed November 28, 2003, to accord the above-identified application a filing date of January 23, 2003

On January 23, 2003, the application was deposited.

On November 20, 2003, the Office of Initial Patent Examination mailed a Notice stating that drawings were not present and that a filing date had not been accorded and the filing date would be the date of receipt of the drawings. The instant petition was filed responsively on November 28, 2003.

The Office has determined that drawings are not necessary to understand at least one claim within the meaning of the first sentence of 35 USC 113. It has been PTO practice to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence). A review of the record reveals that Claims 8 and 9 are method claims. Therefore, the present application is deemed to be an application that does not require a drawing for an understanding of the invention. Accordingly, the application, as filed, is entitled to a filing date.

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

The petition fee of $130.00 will be refunded, in due course.

The application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of January 23, 2003.

Any inquiries related to this decision should be directed to the undersigned at (703)305-0010

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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Paper No. 5

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

JUN - 2 2004

In re Application of:
Joao Paulo Sanmarful Goncalves et al.
Serial No.: 10/349,861
Filed: January 23, 2003
For: UNIVERSAL ANTENNA MOUNT

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY/AGENT OF RECORD

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed October 14, 2003.

The request is APPROVED.

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

Currently, there is no outstanding action that requires a response from the applicant.

Lawrence E. Laubscher, the sole attorney of record, signed the request and gave the address of "Shulman Rogers," as appears below, as the new correspondence address of record.

All future communications from the Office will be directed to the below-listed address until otherwise notified by the applicants. A one time courtesy copy is being mailed to the first named inventor.

Any inquiry regarding this decision should be directed to Hien H. Phan, Special Program Examiner, at (571) 272-1606.

Hien H. Phan, Special Program Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

CC: Jason Kerben
SHULMAN, ROGERS, GANDAL, PORDY & ECKER
11921 Rockville Pike, Third Floor
Rockville, MD 20852

Joao Paulo Sanmarful Goncalves
Rua Teofilo Carvalho dos Santos n. $^{0}4,3^{0}$ Esq.
Prior Velho, Portugal 2685-382

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Paper No. 4

JUN 0 4 2003

OFFICE OF PETITIONS

Koda & Androlia
Suite 3850
2029 Century Park East
Los Angeles, CA 90067

In re Application of :
Adachi, et al. :
Application No. 10/349,868 : ON PETITION
Receipt Date: January 23, 2003 :
Attorney Docket No.: 254A 3020-DIV :

This is a decision on the petition filed April 1, 2003, requesting that the above-identified application be accorded a filing date of January 23, 2003.

The application was deposited on January 23, 2003. However, on March 6, 2003, the Office of Initial Patent Examination mailed a Notice of Omitted Items in a Nonprovisional Application ("Notice") indicating that the application had been accorded a filing date but that pages 31-37 of the specification appeared to have been omitted from the application.

The Notice permitted applicant to either: (1) promptly establish prior receipt in the PTO of the omitted items at issue (generally by way of a date-stamped postcard receipt (MPEP 503)), or (2) promptly submit the omitted drawing(s) in a nonprovisional application and accept the date of such submission as the application filing date. An applicant asserting that the items in question were in fact deposited in the PTO with the application papers must file a petition (and the appropriate petition fee) with evidence of such deposit. An applicant desiring to submit the omitted items and accept the date of such submission as the application filing date must file any omitted items with an oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such items and a petition under 37 CFR 1.182 (with the petition fee under 37 CFR 1.17(h)) requesting the later filing date within two months of the date of the Notice (37 CFR 1.181(f)).

In response to the Notice, the present petition was filed wherein petitioner argues that a complete copy of the specification, including pages 31-37, was filed on January 23, 2003. In support of this petition, petitioner has submitted declarations from Hiroshi Kondo and Inja Yi who were involved in preparing the application for filing. Petitioner has also submitted a complete copy of the application, including pages 31-37, along with a copy of a postcard date stamped by the Office.

The arguments and evidence submitted by petitioner have been considered, but are not persuasive. The USPTO file is the official record of the papers originally filed in this application. A review of the official file reveals that 78 pages of specification and an 8 page preliminary amendment were filed on January 23, 2003. The USPTO file indicates that pages 31-37 were not among the papers filed on January 23, 2003.

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 fact that counsel and counsel's staff believe pages 31-37 were among the papers filed is not more

persuasive than the actual papers shown to have been received by the official file.

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

The copy of the postcard submitted by petitioner fails to adequately itemize the items purportedly filed. As a result, the postcard is not accepted as *prima facie* evidence of receipt on January 23, 2003 of the items in question.

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.

Petitioner is advised that a supplemental oath or declaration covering the omitted items is required for obtaining a filing date.

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

By mail:	**Mail Stop Petition** Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(703) 308-6916
By hand:	Office of Petitions 2201 South Clark Place Crystal Plaza 4, Suite 3C23 Arlington, VA 22202
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office 2011 South Clark Place Customer Window, **Mail Stop Petition** Crystal Plaza Two, Lobby, Room 1B03 Arlington, VA 22202

Telephone inquiries related to this decision may be directed to Petitions Attorney Alesia M. Brown at (703) 305-0310.

for D Wood

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

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Paper No. 7

KODA & ANDROLIA
2029 CENTURY PARK EAST
SUITE 1430
LOS ANGELES CA 90068-3024

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OFFICE OF PETITIONS

In re Application of :
Adachi, et al. :
Application No. 10/349,868 : ON PETITION
Receipt Date: January 23, 2003 :
Attorney Docket No.: 254A 3020-DIV :

This is a decision on the renewed petition filed August 4, 2003, requesting that the above-identified application be accorded a filing date of January 23, 2003.

The application was deposited on January 23, 2003. However, on March 6, 2003, the Office of Initial Patent Examination mailed a Notice of Omitted Items in a Nonprovisional Application ("Notice") indicating that the application had been accorded a filing date but that pages 31-37 of the specification appeared to have been omitted from the application.

The Notice permitted applicant to either: (1) promptly establish prior receipt in the PTO of the omitted items at issue (generally by way of a date-stamped postcard receipt (MPEP 503)), or (2) promptly submit the omitted drawing(s) in a nonprovisional application and accept the date of such submission as the application filing date. An applicant asserting that the items in question were in fact deposited in the PTO with the application papers must file a petition (and the appropriate petition fee) with evidence of such deposit. An applicant desiring to submit the omitted items and accept the date of such submission as the application filing date must file any omitted items with an oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such items and a petition under 37 CFR 1.182 (with the petition fee under 37 CFR 1.17(h)) requesting the later filing date within two months of the date of the Notice (37 CFR 1.181(f)).

On renewed petition, petitioner argues that that a complete copy of the specification, including pages 31-37, was filed on

January 23, 2003. Petitioner argues that the return postcard previously submitted is adequately itemized. Petitioner further argues that the declarations of Hiroshi Kondo and Inja Yi serve as *prima* facie evidence that the application as filed included the pages in question. Petitioner further argues that the application as filed is complete for the application incorporated by reference the disclosure of prior application No. 09/690,349.

The arguments and evidence submitted by petitioner have been considered, but are not persuasive. The USPTO file is the official record of the papers originally filed in this application. 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. A review of the official file reveals that 78 pages of specification and an 8 page preliminary amendment were filed on January 23, 2003. The USPTO file indicates that pages 31-37 were not among the papers filed on January 23, 2003.

The declarations of Hiroshi Kondo and Inja Yi rely upon the declarants' recall of routine events that occurred nearly three months earlier and are not more persuasive than the record of what was filed as shown in the official file. Accordingly, the fact that counsel and counsel's staff believe pages 31-37 were among the papers filed is not more persuasive than the actual papers shown to have been received by the official file.

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

In accordance with MPEP 503, a properly itemized postcard should include applicant's name(s); title of invention; number of pages of specification, claims (for nonprovisional applications), and sheets of drawing; whether oath or declaration is included; a list of any additional forms included with the application (e.g., application transmittal form, application data sheet, fee transmittal form, and /or provisional application cover sheet); and amount and manner of paying the fee.

Petitioner's postcard does not indicate the number of pages of specification submitted therefore it cannot be concluded that pages 31-37 were included with the application papers received January 23, 2003.

Petitioner contends upon renewed petition that the instant application incorporated by reference the entire disclosure of prior application No. 09/690,349. However, a review of the official application file reveals there was no incorporation by reference of the disclosure of application No. 09/690,349 into the disclosure of the present application on January 23, 2003.

Petitioner's attention is directed to MPEP 201.06 wherein it states in pertinent part that as a safeguard against inadvertent omissions of prior application papers, an applicant may incorporate by reference the prior application by including, in the continuation or divisional application-as-filed, a statement that such specifically enumerated prior application or applications are "hereby incorporated herein by reference." The statement may appear in the specification or in the application transmittal letter. The incorporation by reference statement can only be relied upon to permit the entering of a portion of the prior application into the continuation or divisional application when the portion of the prior application has been inadvertently omitted from the submitted application papers in the continuation or divisional application. The inclusion of this incorporation by reference of the prior application(s) will permit an applicant to amend the continuation or divisional application to include any subject matter in such prior application(s), without the need for a petition provided the continuation or divisional application is entitled to a filing date notwithstanding the incorporation by reference. However, a priority claim under 35 U.S.C. 120 in a continuation or divisional application does not amount to an incorporation by reference of the application(s) to which priority is claimed. For the incorporation by reference 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 transmittal letter-as-filed, or in an amendment specifically referred to in an oath or declaration executing the application. Mere reference to another application, patent, or publication is not an incorporation of anything therein into the application containing such reference for the purpose of the disclosure required by 35 U.S.C. 112, first paragraph. See, In re de

Seversky, 474 F.2d 671, 177 USPQ 144 (CCPA 1973) and Dart Industries, Inc. v. Banner, 207 USPQ 273, 276 (D.C. Cir. 1980).

There is nothing in the language cited in the application transmittal letter as-filed or any of the application papers as filed incorporating the disclosure of application No. 09/690,349 into the instant application. The mere reference to another application is not an incorporation of anything therein into the application containing the reference.

Petitioner is entitled to a filing date of April 1, 2003, the date the omitted items were submitted.

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.

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

By mail:	**Mail Stop Petition** Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(703) 308-6916
By hand:	Office of Petitions 2201 South Clark Place Crystal Plaza 4, Suite 3C23 Arlington, VA 22202
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office 2011 South Clark Place Customer Window, **Mail Stop Petition** Crystal Plaza Two, Lobby, Room 1B03 Arlington, VA 22202

Telephone inquiries related to this decision may be directed to Petitions Attorney Alesia M. Brown at (703) 305-0310.

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

INTEL/BSTZ
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE CA 94085-4040

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NOV 14 2008

In re Application of	:	
Vincent J. Zimmer, et al.	:	
Application No. 10/349,892	:	DECISION ON PETITION
Filed: January 22, 2003	:	
Attorney Docket No. 042390.P15494	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 31, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, February 8, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on May 9, 2007. The Notice of Abandonment was mailed October 3, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 2113 for appropriate action by the Examiner in the normal course of business on the reply received.

Chris Bottorff
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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FEB 24 2006

OFFICE OF PETITIONS

DICKSTEIN SHAPIRO MORIN & OSHINSKY
2101 L STREET, NW
WASHINGTON DC 20037

In re Application of :
Katsuhito Shimizu et al :
Application No. 10/349,923 : ON PETITION
Filed: January 24, 2003 :
Attorney Docket No. H6810.0182/P182-A :

This is a decision on the petition, filed February 22, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on January 26, 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 2168 will consider the request for continued examination under 37 CFR 1.114.

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

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

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

BORDEN LADNER GERVAIS LLP
Anne Kinsman
WORLD EXCHANGE PLAZA
100 QUEEN STREET SUITE 1100
OTTAWA, ON K1P 1J9
CANADA

Mail Date: 04/20/2010

Applicant	: Alan G. Solheim	: DECISION ON REQUEST FOR
Patent Number	: 7590153	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/349,939	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/24/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1834** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Paper No. 4

Ziolkowski Patent Solutions Group , LLC
14135 North Cedarburg Road
Mequon, WI 53097

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AUG 2 5 2003

OFFICE OF PETITIONS

In re Application of	:
Koerner and Opipari	: DECISION REFUSING
Application No. 10/349,944	: STATUS UNDER
Filed: January 22, 2003	: 37 CFR 1.47(a)
Attorney Docket No. BMCA9159.032	:
For: OIL PRESSURE MONITORING SYSTEM FOR TWO- STROKE ENGINES	:

This is a decision on the petition under 37 CFR 1.47(a), filed May 12, 2003.

The petition is **DISMISSED**.

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

A grantable petition under 37 CFR 1.47(a) requires

(1) proof that the non-signing inventor cannot be found or reached after diligent effort or that the inventor refuses to sign after having been presented with the application papers (specification, claims, and drawings),
(2) a proper oath or Declaration executed by the available joint inventor(s),
(3) the fee of $130 as specified in 37 CFR § 1.17(h), and
(4) the last known address of the omitted inventor(s).

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 (2) and (3).

As to (2), where an application is executed by one other than the inventor, the declaration required by 37 CFR 1.63 must state the full name, residence, post office address, and citizenship of the non-signing inventor. The declaration fails to provide the required information.

As to (3), the record fails to indicate receipt of the $130 petition fee.

The header of the instant petition states the application number is 10/319,092. However, the correct application number is 10/349,944. Petitioner should ensure that all future correspondence contains correct identifying information.

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.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 7

Ziolkowski Patent Solutions Group , LLC
14135 North Cedarburg Road
Mequon, WI 53097

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OCT 2 0 2003

OFFICE OF PETITIONS

In re Application of	:
Koerner and Opipari	: DECISION ACCORDING
Application No. 10/349,944	: STATUS UNDER
Filed: January 22, 2003	: 37 CFR 1.47(a)
Attorney Docket No. BMCA9159.032	:
For: OIL PRESSURE MONITORING SYSTEM FOR TWO- STROKE ENGINES	:

This is in response to the renewed petition under 37 CFR 1.47(a) filed September 26, 2003.

The petition is granted.

The above-identified application was filed on November 14, 1997, with an unexecuted declaration. Accordingly, on March 5, 1998, a "Notice to File Missing Parts of Application" was mailed, requiring the insufficiency in filing fee, an executed declaration, and a surcharge for their late filing. The Notice was remailed on February 5, 1999. In response, on August 10, 1999, the instant petition, a petition for a four month extension of time, and a declaration signed by only one of the four inventors was filed.

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 or cannot be located.

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

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the 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

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

Anteo Opipari
4612 N. Leavitt St.
Chicago, IL 60625

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OCT 2 0 2003

OFFICE OF PETITIONS

In re Application of :
Koerner and Opipari :
Application No. 10/349,944 :
Filed: January 22, 2003 : Letter
Attorney Docket No. BMCA9159.032 :
For: OIL PRESSURE MONITORING SYSTEM :
FOR TWO- STROKE ENGINES :

Dear Mr. Opipari:

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: Ziolkowski Patent Solutions Group , LLC
14135 North Cedarburg Road
Mequon, WI 53097

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Mailed: 8/31/06

caj

In re application of :
Seiji Yoshimura et al. : DECISION ON
Serial No. 10/349,952 : PETITION
Filed: January 24, 2003 :
For: LITHIUM PRIMARY BATTERY

This is a decision on the PETITION UNDER 37 CFR 1.181 TO WITHDRAW THE FINALITY OF THE OFFICE ACTION mailed May 31, 2006.

On February 6, 2006, a final office action was mailed by the examiner, rejecting all of the claims under 35 USC 103. Applicant responded to this office action on May 8, 2006. This response requested withdrawal of the finality of the previous office action and did not contain any amendments to the claims. A new final rejection was mailed by the examiner on May 31, 2006, again rejecting all of the claims over the previously cited references. A new ground of rejection under 35 USC 112, first paragraph was also made over all of the pending claims.

On June 28, 2006, the instant petition under 37 CFR 1.181 was filed to formally request the withdrawal of finality of the May 31, 2006 office action.

Applicant's position for the withdrawal of the finality is that the new grounds of rejection in the final office action were not necessitated by Applicant's amendments to the claims.

DECISION

Section 706.07 of the MPEP states:

706.07(a) Final Rejection, When Proper on Second Action

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

Petitioner urges that the 35 USC 112, first paragraph rejection in the final office action mailed May 31, 2006 was not necessitated by Applicant's amendments to the claims. It is noted that the limitation regarded by the examiner as new matter was added to the claims in the amendment filed November 21, 2005. In the final office action mailed February 6, 2006, the examiner made no mention of this limitation with respect to whether or not the phrase "does not contain lithium prior to discharge" was supported by the original disclosure. Applicant then responded to this office action, without making any amendments to the claims. In the subsequent final office action, the examiner rejects the limitation as failing to comply with the written description requirement. Such a rejection should have

been made in the final office action mailed February 6, 2006 and therefore, the new grounds of rejection in the final office action mailed May 31, 2006 were clearly not necessitated by the amendments to the claims.

Because the new ground of rejection was not necessitated by amendment, the petition for withdrawal of finality is **GRANTED**

It is also pointed out that while the finality of the office action has been withdrawn, the rejection still stands. Applicant's time for response continues to run from May 31, 2006. Extensions of time may be obtained to file any amendments.

Jacqueline M. Stone

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

KUBOVCIK & KUBOVCIK
THE FARRAGUT BUILDING
SUITE 710
900 17TH STREET
WASHINGTON DC 20006

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Paper No. 3

MADSON & METCALF
GATEWAY TOWER WEST
SUITE 900
15 WEST SOUTH TEMPLE
SALT LAKE CITY, UT 84101

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APR 1 8 2003

OFFICE OF PETITIONS

In re Application of :
Kun-Long Lin et al :
Application No. 10/349,983 : NOTICE
Filed: January 23, 2003 :
Attorney Docket No. 3304.2.29 :

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 2819.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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STEVEN WESEMAN
ASSOCIATE GENERAL COUNSEL IP
CABOT MICROELECTRONICS CORPORATION
870 NORTH COMMONS DRIVE
AURORA IL 60504

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SEP 0 1 2006

OFFICE OF PETITIONS

In re Application of	:	
Steckenrider, et al.	:	
Application No. 10/349,987	:	ON PETITION
Filed: January 23, 2003	:	
Attorney Docket No. 96125DIV	:	

This is a decision on the petition under 37 CFR 1.137(b), filed February 24, 2006, to revive the above-identified application.

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)." This is **not** a final agency decision within the meaning of 5 USC 704.

The above-identified application became abandoned for failure to timely file a response to the non-final Office action mailed April 12, 2005. This Office action set a shortened statutory period for reply of three months. No extensions of time under 37 CFR 1.136(a) were obtained. Accordingly, no reply having been received, the application became abandoned on July 13, 2005. The mailing of this decision precedes the mailing of a Notice of Abandonment.

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).

The instant petition lacks item (2), the petition fee. No authorization to charge the petition fee could be found.

In addition, the instant petition lacks item (1), the required reply. While petitioner has submitted with his petition a "SUPPLEMENTAL REPLY TO OFFICE ACTION', the reply lacks a signature in accordance with 37 CFR 1.4(d).

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

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

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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STEVEN WESEMAN
ASSOCIATE GENERAL COUNSEL IP
CABOT MICROELECTRONICS CORPORATION
870 NORTH COMMONS DRIVE
AURORA IL 60504

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In re Application of :
Steckenrider, et al. :
Application No. 10/349,987 : ON PETITION
Filed: January 23, 2003 :
Attorney Docket No. 96125DIV :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed September 14, 2006, 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 timely file a response to the non-final Office action mailed April 12, 2005. This Office action set a shortened statutory period for reply of three months. No extensions of time under 37 CFR 1.136(a) were obtained. Accordingly, no reply having been received, the application became abandoned on July 13, 2005. Applicants filed a petition to revive under 37 CFR 1.137(b) on February 24, 2006. However, the petition was dismissed in a decision mailed on September 1, 2006. The petition lacked the petition fee. In addition, the amendment submitted with the petition lacked a signature.

With the instant petition, petitioner paid the petition fee and submitted an executed Amendment.

The matter is being forwarded to Group Art Unit 1755 for consideration of the Amendment filed September 14, 2006.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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Alexandria, VA 22313-1450
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11-9-09

Patent No. : 7,404,086
Ser. No. : 10/350,003
Inventor(s) : Sands, Justin M. Sands, et. al.
Issued : July 22, 2008

Re: Request for Certificate of Correction

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

required *at any time after the issue fee is paid*, including after issuance of the patent.

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

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

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

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

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

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

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

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

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

Eva James
For Mary Diggs
Decisions & Certificates
of Correction Branch
(703) 756-1583 or 1580

Robert C. Bertin
Bingham McCutchen
2020 K. Street, NW
Washington, dc 20006

ej

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BINGHAM MCCUTCHEN LLP
2020 K Street, N.W.
Intellectual Property Department
WASHINGTON DC 20006

MAILED

JUN 15 2010

OFFICE OF PETITIONS

In re Patent No. 7,404,086 :
Issue Date: July 22, 2008 :
Application No. 10/350,003 : DECISION ON PETITION
Filed: January 24, 2003 :
Attorney Docket No. 4207680002 :

This is a decision on the Request For Certificate of Correction, filed November 6, 2008, requesting correction on the Title Page of the subject patent to identify the correct assignee's name. A completed Certificate of Correction Form (PTO/SB/44) was submitted.

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

Petitioner urges that the present Petition was submitted to correct the assignee's name included on the previously submitted PTOL 85B and that such error was inadvertent. Accordingly, petitioner requests, in effect, that a Certificate of Correction (PTO/SB/44) be issued the correct name of the assignee to the Title 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.

The requisite $100.00 fee (Fee Code 1811), as set forth under 37 CFR 1.20(a) and the requisite $130.00 processing fee (Fee Code 1464), as set forth under 37 CFR 1.17(i), were 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 accompanied the present 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. 7,404,086.

Cheryl Gibson-Baylor

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA VA 22314-1176

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OCT 3 1 2008

OFFICE OF PETITIONS

In re Patent of :
Jessica Wang :
Application No. 10/350024 :
Filing or 371(c) Date: 01/24/2003 : ON PETITION
Patent No. 6719440 :
Issue Date: 04/13/2004 :
Title of Invention: :
STRUCTURE OF FORMATIVE LIGHTING :
FIXTURES :

This is a decision on the Petition to Accept Unintentionally Delayed Payment of Maintenance Fee in an Expired Patent under 37 CFR § 1.378(c), filed October 14, 2008, to reinstate the above-identified patent.

The petition is **GRANTED**.

The patent issued April 13, 2004. The grace period for paying the three and one-half (3½) year maintenance fee expired on April 14, 2008. Therefore, since this petition was filed within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), this petition was timely filed under the provisions of 37 CFR 1.378(c).

Accordingly, the maintenance fee in this case is hereby accepted and the above-identified patent is hereby reinstated as of the mail date of this decision.

A review of the petition reveals that the address appearing on the petition differs from the correspondence address of record. Applicant is advised that, in patented files: requests for changes of correspondence address, powers of attorney, revocations of powers of attorney, withdrawal of attorney and submissions under 37 CFR 1.501: Designation of, or changes to, a fee address, should be addressed to Mail Stop M Correspondence.

The file is being referred to the files repository.

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

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

CC: SEED INTELLECTUAL PROPERTY LAW GROUP, PLLC
701 5TH AVENUE
SUITE 5400
SEATTLE, WA 98104

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DAVID E. DOUGHERTY
DENNISON, SCHULTZ, DOUGHERTY & MACDONALD
1727 KING STREET, SUITE 105
ALEXANDRIA, VA 22314

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OFFICE OF PETITIONS

In re Application of	:	
HUANG	:	
Application No.: 10/350,072	:	DECISION ON PETITION
Filing Date: January 24, 2003	:	UNDER 37 CFR 1.137(B)
Attorney Docket No.: 3226/10	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 9, 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 October 1, 2004, which set a statutory period for reply of three (3) months. Accordingly, by operation of law, the above-identified application became abandoned on January 2, 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 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.

The above-identified application has been abandoned for an extended period of time. The USPTO is relying on petitioner's duty of candor and good faith and accepting applicant's statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. See Changes to Patent Practice and Procedure 62 Fed. Reg. at 53160 and 53718, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the United States Patent and Trademark Office.)

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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MAR 18 2004

STEPHEN B. MAEBIUS
FOLEY AND LARDNER
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

In re Application of :
David M. Goldenberg et al :
Serial No.: 10/350,096 : WITHDRAWAL OF ATTORNEY
Filed: January 24, 2003 :
Attorney Docket No.: 018733-1168 :

This is in response to applicants' attorneys' request, filed February 26, 2004, to withdraw from representation in the above identified application.

37 CFR 10.40 Withdrawal from employment.
(b) Mandatory withdrawal . A practitioner representing a client before the Office shall withdraw from employment if:
(1) The practitioner knows or it is obvious that the client is bringing a legal action, commencing a proceeding before the Office, conducting a defense, or asserting a position in litigation or any proceeding pending before the Office, or is otherwise having steps taken for the client, merely for the purpose of harassing or maliciously injuring any person;
(2) The practitioner knows or it is obvious that the practitioner's continued employment will result in violation of a Disciplinary Rule;
(3) The practitioner's mental or physical condition renders it unreasonably difficult for the practitioner to carry out the employment effectively; or
(4) The practitioner is discharged by the client.
(c) Permissive withdrawal. If paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matters pending before the Office unless such request or such withdrawal is because:
(1) The petitioner's client:
(i) Insists upon presenting a claim or defense that is not warranted under existing law and cannot be supported by good faith argument for an extension, modification, or reversal of existing law;
(ii) Personally seeks to pursue an illegal course of conduct;
(iii) Insists that the practitioner pursue a course of conduct that is illegal or that is prohibited under a Disciplinary Rule;
(iv) By other conduct renders it unreasonably difficult for the practitioner to carry out the employment effectively;
(v) Insists, in a matter not pending before a tribunal, that the practitioner engage in conduct that is contrary to the judgment and advice of the practitioner but not prohibited under the Disciplinary Rule; or
(vi) Has failed to pay one or more bills rendered by the practitioner for an unreasonable period of time or has failed to honor an agreement to pay a retainer in advance of the performance of legal services.
(2) The practitioner's continued employment is likely to result in a violation of a Disciplinary Rule;
(3) The practitioner's inability to work with co-counsel indicates that the best interests of the client likely will be served by withdrawal;
(4) The practitioner's mental or physical condition renders it difficult for the practitioner to carry out the employment effectively;
(5) The practitioner's client knowingly and freely assents to termination of the employment; or

(6) The practitioner believes in good faith, in a proceeding pending before the Office, that the Office will find the existence of other good cause for withdrawal.

Applicants' attorney has provided no reason for withdrawal, as required.

The request to withdraw is **DISMISSED**.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at Office facsimile number.

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

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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ARTHUR J. BEHIEL
SILICON EDGE LAW GROUP, LLP
6601 KOLL CENTER PARKWAY, SUITE 245
PLEASANTON, CA 94566

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MAR 06 2009

OFFICE OF PETITIONS

In re Application of :
Sergey Belikov, et. al :
Application No. 10/350,130 : DECISION ON PETITION
Filed: January 23, 2003 : TO WITHDRAW
Attorney Docket No. 303.1001.01 : 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 21, 2005.

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

A review of the file record indicates that the power of attorney ARTHUR J. BEHIEL has been revoked by the assignee of the patent application on June 20, 2006. Accordingly, the request to withdraw under 37 CFR 1.36(b) is moot.

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

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

Carl Friedman
Petitions Examiner
Office of Petitions

cc: SWERNOFSKY LAW GROUP PC
548 MARKET ST.
SAN FRANCISCO CA 94104

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LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1128
4417 LANCASTER PIKE
WILMINGTON, DE 19805

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OFFICE OF PETITIONS

In re Application of	:
Gary J. Sullivan	:
Application No. 10/350,145	: DECISION ON PETITION
Filed: January 22, 2003	: UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. MS1-1302US	:

This is a decision on the petition under 37 CFR 1.78(a)(6), filed January 14, 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 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 provisional application is submitted after expiration of the period specified in 37 CFR 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(6).

The instant nonprovisional application was pending at the time of filing of the reference to the prior-fiiled provisional application as required by 37 CFR 1.78(a)(5)(iii). Additionally, the instant nonprovisional application was filed within twelve months of the filing date of the prior-filed provisional application, Application No. 60/351,143, which was filed on January 22, 2002, for which priority is claimed.

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(6) in that (1) a reference to the above-noted, prior-filed provisional 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)(5)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 119(e) to the above-noted, prior-filed provisional application satisfies the conditions of 37 CFR 1.78(a)(6), 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)(6) should not be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

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

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3208. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

The application is being forwarded to Technology Center AU 2613 for appropriate action on the amendment submitted January 14, 2005, including consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to prior-filed provisional Application No. 60/351,143, filed January 22, 2002.

Karen Creasy

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

ATTACHMENT: Corrected Filing Receipt

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 8/10/2006

TO SPE OF : ART UNIT 3600 (3672)

SUBJECT : Request for Certificate of Correction on Patent No.: 7,032,659

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

Please complete this form and return with file, within 7 days to:
Certificates of Correction Branch – 2900 South Tower ste.9A43A
Palm location **7580** - Tel. No. 305-8309

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

Ok to enter changes to claims as requested in C of C in Madras/eDan?

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

Thank You For Your Assistance

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

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

Comments:

The corrections do not affect the scope of invention.

DAVID BAGNELL
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

SPE

3672
Art Unit

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FEB 05 2007

TECHNOLOGY CENTER 3600

In re Patent No. BARNES ET AL.
Issue Date: April 25, 2006
Appl No.: 10/350,157
Filed: January 23, 2003
For: INTEGRATED CONTROL SYSTEM FOR BEAM PUMP SYSTEMS

DECISION GRANTING PETITION
37 CFR 1.324

This is a decision on the petition under 37 CFR 1.48, filed October 14, 2003. 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. It is noted that the combined declaration and power of attorney filed with the request under 37 CFR 1.48 is considered a de facto statement from the current inventors agreeing to the change of inventorship as required by 37 CFR 1.324.

The patented file is being forwarded to Certificate of Corrections Branch for issuance of a certificate naming only the actual inventor or inventors.

David J. Bagnell
Supervisory Patent Examiner
Art Unit 3672
Patent Examining Group 3600

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

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JOHN MANOLIS, PH.D
P.O. BOX 380
NEW YORK, NY 10028

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AUG 0 4 2004

OFFICE OF PETITIONS

In re Application of :
John Manolis et al :
Application No. 10/350,170 : ON PETITION
Filed: January 24, 2003 :
Attorney Docket No. 04272/RPM :

This is a decision on the petition under 37 CFR 1.137(b), filed June 11, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed October 7, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on January 8, 2004.

The above-identified application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the above-identified application, the above-identified application is again abandoned in favor of a continuing application No. 10/866,305.

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

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future

correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address of currently of record until such time as appropriate instructions are received to the contrary.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 305-9282.

This application file is being referred to Files Repository.

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

cc: ROBERT P. MICHAL
FRISHAUF, HOLTZ, GOODMAN & CHICK, P.C.
767 THIRD AVENUE
NEW YORK, NY 10017-2023

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OFFICE OF PETITIONS

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

In re Application of :
Hidemitsu Oaki et al :
Application No. 10/350,185 : ON PETITION
Filed: January 24, 2003 :
Attorney Docket No. 8017-1086 :

This is a decision on the petition, filed September 6, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on August 31, 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 2813 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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

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CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON, MA 02110

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OFFICE OF PETITIONS

In re Application of

Michael M. Segal
Application No. 10/350,217
Filed: January 22, 2003
Attorney Docket No. 50699/004001

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed November 5, 2009.

The request is **APPROVED**.

A review of the file record indicates that John D. Lanza: (1) does not have power of attorney in this patent application; and (2) has been employed or otherwise engaged in the proceedings in this patent application. In view of the present decision, John D. Lanza has been withdrawn from the present application and may not prepare or submit papers under 37 C.F.R. § 1.34, or correspond in any manner in this application unless appointed in an acceptable power of attorney under 37 C.F.R. § 1.32(b).

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

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: John D. Lanza
Two International Place
Boston, MA 02110

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P.O. Box 1450
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ARMSTRONG KRATZ QUINTOS
HANSON & BROOKS, LLP
1725 K STREET, NW, SUITE 1000
WASHINGTON, DC 20006

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OFFICE OF PETITIONS

In re Application of :
Satoshi Otsuka et al :
Application No. 10/350,219 : ON PETITION
Filed: January 24, 2003 :
Attorney Docket No. 030057

This is a decision on the petition, filed October 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 September 2, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2814 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

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

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CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON MA 02110

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OFFICE OF PETITIONS

In re	:
Kwang-Soo Kim	: DECISION ON APPLICATION
Application No. 10/350,257	: FOR PATENT TERM ADJUSTMENT
Filed: January 23, 2003	: AND
Patent No. 7,037,715	: NOTICE OF INTENT TO ISSUE
Issued: May 2, 2006	: CERTIFICATE OF CORRECTION

This decision is in response to the "REQUEST FOR CORRECTION OF PATENT TERM ADJUSTMENT", filed June 30, 2006, notifying the Office of an error in Patentees' favor in the determination of patent term adjustment under 35 U.S.C. 154(b).

The request for correction of the patent term adjustment (PTA) is **GRANTED**.

The patent term adjustment indicated on the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **zero (0)** days.

On May 2, 2006, the above-identified application matured into U.S. Patent No. 7,037,715. The patent issued with a Patent Term Adjustment of sixty-six (66) days.

The Office determined a patent term adjustment of sixty-six (66) days based on an adjustment for PTO delay of one hundred forty-seven (147) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. §1.703(a)(1), and eleven (11) days pursuant to 35 U.S.C. 154(b)(1)(A)(iv) and 37 C.F.R. §1.703(a)(6), reduced by ninety-two (92) days of applicant delay pursuant to 35 U.S.C. 154 (b)(1)(C)(ii) and 37 C.F.R. 1.704(b).

A review of the application reveals that Applicant should have been assessed additional delay of ninety-four (94) days. The Office mailed a Notice to File Missing Parts on April 14, 2003. Applicant did not file a response until October 16, 2003. Accordingly, pursuant to 37 C.F.R. 1.704(b), applicant should have been assessed ninety-four (94) days of delay with respect to this filing.

Accordingly, issuance of a certificate of correction pursuant to 35 U.S.C. 254 and 37 C.F.R. §1.322 is appropriate. No petition fee was required and none has been charged. The Office thanks Patentees for their good faith and candor in bringing this matter to the attention of the Office.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify the error regarding the patent term information. See 35 U.S.C. 254 and 37 C.F.R. §1.322. The certificate of correction will indicate that the term of the above-identified patent is extended or adjusted by **zero (0)** days subject to any disclaimers.

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

Kery A. Fries

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

Enclosure: Copy of Draft Certificate of Correction (1 page)

UNITED STATES PATENT AND TRADEMARK OFFICE

DRAFT CERTIFICATE OF CORRECTION

PATENT : 7,037,715 B2

DATED : May 2, 2006

INVENTOR(S) : Kwang-Soo Kim

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 (66) days

Delete the phrase "by 66 days" and insert – by 0 days—

Day : Saturday
Date: 9/30/2006

PALM INTRANET

Time: 12:37:54

PTA Calculations for Application: 10/350257

Application Filing Date:	01/23/2003	PTO Delay (PTO):	158
Issue Date of Patent:	05/02/2006	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	92
Post-Issue Petitions:	0	Total PTA (days):	0
PTO Delay Adjustment:	-66		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
48	09/30/2006	ADJUSTMENT OF PTA CALCULATION BY PTO		66	
40.5	04/12/2006	PTA 36 MONTHS			
40	05/02/2006	PATENT ISSUE DATE USED IN PTA CALCULATION	11		37
39	04/04/2006	DISPATCH TO FDC			
38	01/25/2006	APPLICATION IS CONSIDERED READY FOR ISSUE			
37	12/21/2005	ISSUE FEE PAYMENT VERIFIED			
36	12/21/2005	ISSUE FEE PAYMENT RECEIVED			
35	10/04/2005	EXPORT TO INITIAL DATA CAPTURE			
34	09/27/2005	MAIL NOTICE OF ALLOWANCE			
33	09/26/2005	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
32	09/19/2005	ISSUE REVISION COMPLETED			
31	09/19/2005	NOTICE OF ALLOWABILITY			
30	07/08/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
29	01/23/2003	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
28	07/15/2005	DATE FORWARDED TO EXAMINER			
27	07/08/2005	RESPONSE AFTER NON-FINAL ACTION		92	24
26	07/08/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
25	07/08/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
24	01/07/2005	MAIL NON-FINAL REJECTION			
23	01/06/2005	NON-FINAL REJECTION			
22	10/27/2004	DATE FORWARDED TO EXAMINER			

21	10/20/2004	RESPONSE TO ELECTION / RESTRICTION FILED			
20	10/20/2004	REQUEST FOR EXTENSION OF TIME - GRANTED			
19	10/20/2004	WORKFLOW INCOMING AMENDMENT IFW			
18	08/17/2004	MAIL RESTRICTION REQUIREMENT	147		-1
17	08/16/2004	REQUIREMENT FOR RESTRICTION / ELECTION			
16	01/23/2004	REFERENCE CAPTURE ON IDS			
15	01/23/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	01/23/2003	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
13	01/23/2004	CASE DOCKETED TO EXAMINER IN GAU			
12	10/30/2003	APPLICATION IS NOW COMPLETE			
11	10/29/2003	APPLICATION DISPATCHED FROM OIPE			
10	10/29/2003	APPLICATION IS NOW COMPLETE			
9	10/14/2003	ADDITIONAL APPLICATION FILING FEES			
8	10/14/2003	APPLICANT HAS SUBMITTED NEW DRAWINGS TO CORRECT CORRECTED PAPERS PROBLEMS			
7	04/14/2003	CORRECTED PAPER			
5	04/01/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
4	02/14/2003	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
3	02/06/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
2	01/23/2003	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
1	01/23/2003	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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KENYON & KENYON LLP
ONE BROADWAY
NEW YORK NY 10004

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APR 2 8 2008

OFFICE OF PETITIONS

In re Application of :
Shirang NETKE et al. :
Application No. 10/350,258 : DECISION ON PETITION
Filed: January 23, 2003 :
Attorney Docket No. **11957/23** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 02, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of September 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). 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 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 $405, and the submission required by 37 CFR 1.114; (2) the petition fee of $770; and (3) a proper statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand 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 the undersigned at (571) 272-2783.

This application is being referred to Technology Center AU 1643 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

David Bucci
Petitions Examiner
Office of Petitions

cc: **ALI KAMAREI, ESQ**
280 COLORADO AVE.
PALO ALTO, CA 94301

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OCT 14 2008

OFFICE OF PETITIONS

QUINE INTELLECTUAL PROPERTY LAW GROUP, P.C.
P O BOX 458
ALAMEDA, CA 94501

In re Application of	:	
Jennifer Whistler, et al.	:	
Application No. 10/350,270	:	DECISION ON PETITION
Filed: January 22, 2003	:	TO WITHDRAW
Attorney Docket No. 316E-001620US	:	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 19, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Quine Intellectual Property Law Group, PC has been revoked by the assignee of the patent application on May 20, 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 undersigned at 571-272-1642.

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

cc: BEYER WEAVER, LLP
PO BOX 70250
OAKLAND, CA 94612-0250

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/350,270	01/22/2003	Jennifer Whistler	316E-001620US

CONFIRMATION NO. 2605

POWER OF ATTORNEY NOTICE

22434
BEYER WEAVER LLP
P.O. BOX 70250
OAKLAND, CA 94612-0250

Date Mailed: 10/10/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/20/2008.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

/mrblyther/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/350,270	01/22/2003	Jennifer Whistler	316E-001620US

CONFIRMATION NO. 2605

POA ACCEPTANCE LETTER

20583
JONES DAY
222 EAST 41ST ST
NEW YORK, NY 10017

OC000000031122502

Date Mailed: 10/10/2008

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/20/2008.

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.

/mrblyther/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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Paper No. 9

ARMSTRONG, KRATZ, QUINTOS,
HANSON & BROOKS, LLP
1725 K Street, NW
Suite 1000
Washington, DC 20006

MAR - 8 2004

In re Application of:
Koichi Inoue
Serial No.: 10/350,271
Filed: January 24, 2003
Attorney Docket No.: **001410B**

SUA SPONTE
DECISION WITHDRAWING HOLDING OF ABANDONMENT

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

The application was held abandoned for failure to timely file a response to the Office action mailed on May 09, 2003. A Notice of Abandonment was mailed on February 19, 2004.

A review of the written record indicates that a proper response to the Office action was previously filed on July 02, 2003, but not matched with the application prior to the mailing of the Notice of Abandonment. The response includes a terminal disclaimer to overcome the obviousness-type double patenting rejection made in the Office action. Since the response was timely filed, the abandonment of the application was premature. Therefore, the application was not abandoned in fact.

For the above stated reason, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. The application is restored to pending status.

The application file is being forwarded to the examiner for consideration of the response.

Inquiries related to this decision should be directed to Clayton E. LaBalle at (571) 272-1594.

Richard K. Seidel, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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Klarquist Sparkman, LLP
One World Trade Center
121 S.W. Salmon Street, Suite 1600
Portland, OR 97204

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AUG 16 2006
OFFICE OF PETITIONS

In re Application of :
Sullivan et al. :
Application No. 10/350,273 : DECISION ON PETITION
Filed: January 22, 2003 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. MS1-1268US :

This is a decision on the petition under 37 CFR 1.78(a)(6), filed January 14, 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 delay in treating this petition is regretted.

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.

Any inquiries concerning this decision may be directed to Derek L. Woods at (571) 272-3232. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

The application is being forwarded to Technology Center AU 2616 for consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to the prior-filed provisional application.

/Frances Hicks/

Frances Hicks
Lead Paralegal
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
10/350,273	01/22/2003	2616	5386	MS1-1268US	3	163	26

CONFIRMATION NO. 9872

Klarquist Sparkman, LLP
One World Trade Center
121 S.W. Salmon Street, Suite 1600
Portland, OR 97204

CORRECTED FILING RECEIPT

OC000000020019658

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)

Gary J. Sullivan, Redmond, WA;
Stephen J. Estrop, Carnation, WA;

Power of Attorney: The patent practitioners associated with Customer Number **26119**.

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/351,143 01/22/2002

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 US10/350,273

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Methods and systems for start code emulation prevention and data stuffing

Preliminary Class

370

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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DURANDO BIRDWELL & JANKE, P.L.C.
2929 E. BROADWAY BLVD.
TUCSON, AZ 85716

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SEP 25 2003

OFFICE OF PETITIONS

In re Application of :
Brent C. Cluff and Gary T. :
Payne : DECISION GRANTING PETITION
Application No. 10/350,274 : UNDER 37 CFR 1.47(a)
Filed: January 23, 2003 :
Title: RAW LIQUID CLEANING
DEVICE AND METHOD

This is in response to the "Petition Under 37 CFR 1.47(a)," filed September 4, 2003.

The petition is **granted**.

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

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

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

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 306-9200.

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

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BRENT C. CLUFF
3513 W. CHURCH STREET
THATCHER, AZ 85552

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SEP 25 2003

OFFICE OF PETITIONS

In re Application of
Brent C. Cluff and Gary T. Payne
Application No. 10/350,274
Filed: January 23, 2003
Title: RAW LIQUID CLEANING DEVICE AND METHOD

Dear BRENT C. CLUFF:

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) 306-9200. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1(800) 972-6382 (outside the Washington D.C. area).

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

DURANDO BIRDWELL & JANKE, P.L.C.
2929 E. BROADWAY BLVD.
TUCSON, AZ 85716

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George A. Papanicolaou
342 Lawson Road
Scarborough, ON M1C 2J9
Canada

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JUL 14 2003

OFFICE OF PETITIONS

In re Application of:
Efland et al.
Application No. 10/350,279
Filed: January 24, 2003
Title of Invention: ASYMMETRIC DIGITAL SUBSCRIBER LINE MODEM APPARATUS AND METHODS THEREFOR

LETTER

Dear Mr. Papanicolaou:

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: STERNE, KESSLER, GOLDSTEIN & FOX PLLC
1100 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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STERNE, KESSLER, GOLDSTEIN & FOX PLLC
1100 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

Paper No. 7

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JUL 14 2003

OFFICE OF PETITIONS

In re Application of:
Efland et al.
Application No. 10/350,279
Filed: January 24, 2003
Title of Invention: ASYMMETRIC DIGITAL SUBSCRIBER LINE MODEM APPARATUS AND METHODS THEREFOR

DECISION GRANTING STATUS UNDER 37 CFR 1.47(a)

This Decision is in response to a Petition Under 37 C.F.R. 1.47(a), filed June 26, 2003, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor.

The petition is **granted**.

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

Petitioner has shown that the non-signing inventor, George A. Papanicolaou, refuses to sign the declaration.

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

The application file is being 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

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 7

Schwegman, Lundberg, Woessner & Kluth, P. A.
P. O. Box 2938
Minneapolis, MN 55402

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OCT 27 2004

OFFICE OF PETITIONS

In re Application of :
David B. Carter, et al. :
Application No. 10/350,281 :
Filed: January 23, 2003 :
Attorney Docket No. 1757.001US1 :

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed July 6, 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 20, 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 February 3, 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 forwarded to Technology Center Art Unit 2600 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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Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

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

In re Application of	:	
Andrew Veline, et al.	:	
Application No. 10/350,295	:	DECISION ON PETITION
Filed: January 24, 2003	:	
Attorney Docket No. 1933.0070001	:	

This is a decision on the 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**.

The application became abandoned for failure to reply in a timely manner to the Non-Compliant Amendment Notice mailed, June 30, 2008, which set a shortened statutory period for reply of one (1) month. No extensions of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on July 1, 2008. The Notice of Abandonment was mailed February 3, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 2457 for appropriate action by the Examiner in the normal course of business on the reply received

Terri Johnson
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Praxair Technology, Inc
Law Department, M1-557
39 Old Ridgebury Road
Danbury CO 06810-5113

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FEB 2 8 2006

OFFICE OF PETITIONS

In re Application of :
Johnson et al. :
Application No. 10/350,307 :
Filed: January 22, 2003 :
Attorney Docket Number: 3011.1006-001 (D-21187)

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed February 3, 2006, to revive the above-identified application.

This above-identified application became abandoned for failure to timely file a reply to the non-final Office Action of March 10, 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 11, 2005. A Notice of Abandonment was mailed on September 29, 2005.

This petition is hereby **Granted**.

A duplicate petition fee was inadvertently charged to deposit account no.16-2440. Accordingly the deposit account will be refunded $1500.00.

The office hereby acknowledges the receipt of the Amendment submitted with the instant petition.

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

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ALEXANDRIA, VA 22313-1450
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Paper No. 5

HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD MA 01742-9133

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JUN 18 2003

OFFICE OF PETITIONS

In re Application of
Cornett, Johnson & Nelson
Application No. 10/350,308
Filed: January 22, 2003
Attorney Docket No. 2479.2144-001
For: TECHNIQUES FOR SETTING UP TRAFFIC CHANNELS IN A COMMUNICATIONS SYSTEM

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

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

The petition is granted.

Petitioners have shown that the non-signing inventor, John B. Cornett, Jr., has constructively 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 Mark B. Solomon and accompanying exhibits establish that the inventor was twice mailed the application papers, including the specification, claims and drawings, but failed to respond to the request that he sign the declaration. Petitioners have submitted a declaration in compliance with 37 CFR 1.63 and 1.64.

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

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

After this decision is mailed, the above-identified application will be forwarded to Technology Center 2600 for examination in due course.

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

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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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Hamilton, Brook, Smith & Reynolds, P.C.
530 Virginia Road
P.O. Box 9133
Concord, MA 01742-9133

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JUN 07 2007

OFFICE OF PETITIONS

In re Application of :
John B. Cornett, Jr. et al. :
Application No. 10/350,308 : DECISION ON PETITION
Filed: January 22, 2003 : TO WITHDRAW
Attorney Docket No. 2479.2144-001 : 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 13, 2007.

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 February 13, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Volpe and Koeing, P.C.**
Dept. ICC
United Plaza, Suite 1600
30 South 17th Street
Philadelphia, PA 19103

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Paper No. 5

HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD MA 01742-9133

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JUN 1 8 2003

OFFICE OF PETITIONS

In re Application of
Cornett, Johnson & Nelson
Application No. 10/350,309
Filed: January 22, 2003
Attorney Docket No. 2479.2142-001
For: TECHNIQUES FOR REDUCING OVERHEAD IN A COMMUNICATIONS SYSTEM

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

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

The petition is granted.

Petitioners have shown that the non-signing inventor, John B. Cornett, Jr., has constructively 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 Mark B. Solomon and accompanying exhibits establish that the inventor was twice mailed the application papers, including the specification, claims and drawings, but failed to respond to the request that he sign the declaration. Petitioners have submitted a declaration in compliance with 37 CFR 1.63 and 1.64.

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

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

After this decision is mailed, the above-identified application will be forwarded to Technology Center 2600 for examination in due course.

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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P.O. BOX 1450
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JOHN B. CORNETT, JR.
503 4th AVENUE
MELBOURNE BEACH FL 32951

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JUN 18 2003

OFFICE OF PETITIONS

In re Application of
Cornett, Johnson & Nelson
Application No. 10/350,309
Filed: January 22, 2003
Attorney Docket No. 2479.2142-001
For: TECHNIQUES FOR REDUCING OVERHEAD IN A COMMUNICATIONS SYSTEM

LETTER

Dear Mr. Cornett:

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: HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD MA 01742-9133

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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 :
John B. Cornett Jr. et al. :
Application No. 10/350,309 : DECISION ON PETITION
Filed: January 22, 2003 : TO WITHDRAW
Attorney Docket No. 2479.2141-001 : 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 11, 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 February 13, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Volpe and Koeing, P.C.**
Dept. ICC
United Plaza, Suite 1600
30 South 17th Street
Philadelphia, PA 19103

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Paper No. 5

QUARLES & BRADY STREICH LANG, LLP
ONE SOUTH CHURCH AVENUE
SUITE 1700
TUCSON, AZ 85701-1621

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OFFICE OF PETITIONS

In re Application of :
Cluff and Payne :
Application No. 10/350,311 :
Filed: January 23, 2003 :
Attorney Docket No. 0507.001 :
For: PORTABLE DRINKING DEVICE :

DECISION ACCORDING STATUS UNDER 37 CFR 1.47

This is in response to the petition under 37 CFR 1.47(a) filed September 4, 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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NOV 01 2006

Technology Center 2100

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

In re Application of: Mckay, et al.
Application No.: 10/350,327
Filed: January 24, 2003
Attorney Docket No.: 100204177-1
For: SINGLE SYSTEM FOR MANAGING MULTI-PLATFORM DATA RETRIEVAL

DECISION ON PETITION *UNDER 37 CFR §1.181*

This is a decision on the petition filed September 14, 2006 under 37 CFR § 1.181. No fee is required.

A review of the file record indicates that a Request for Continued Examination (RCE) under 37 CFR § 1.114 was filed in the instant application on October 16, 2006 along with a one-month extension of time. In accordance with 37 CFR § 1.114 (d), which states in part: ***If an applicant timely files a submission and fee set forth in § 1.17(e), the Office will withdraw the finality of any Office action and the submission will be entered and considered.*** The RCE request was processed by the Technology support staff on October 19, 2006. The fee for the RCE and one-month extension of time were also charged to deposit account No. 08-2025 on October 19, 2006.

Accordingly, in view of the above stated reason, the instant petition, filed under 37 CFR §1.181 to withdraw the finality of the June 15, 2006 Office action in this application, is rendered moot.

Accordingly, the petition is **DISMISSED as MOOT**.

The application is being forwarded to the Examiner for action on the merits. Telephone inquiries should be directed to the undersigned at 571-272-3595.

Brian L. Johnson
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security

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OFFICE OF PETITIONS

Ywe J Looper
Ecopia Biosciences INC
7290 Frederick-Banting
Saint-Laurent QC CA CANADA

Applicant: Farnet et al.
Appl. No.: 10/350,341
Filing Date: January 24, 2003
Title: METHOD, SYSTEM AND KNOWLEDGE REPOSITORY FOR IDENTIFYING A SECONDARY METABOLITE FROM A MICROORGANISM
Pub. No.: US 2003/0180766 A1
Pub. Date: September 25, 2003

This is a decision on the request for corrected patent application publication under 37 CFR 1.221(b), filed on July 8, 2004 for above-identified application.

While, the request is unsigned, it has been treated on the merits.

The request is DISMISSED.

The instant request is that the application be republished because the patent application publication contains the wrong correspondence address on the front page of the patent application publication.

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records . . . Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.[1]

The request for corrected publication received on July 8, 2004, was not timely filed under 37 CFR 1.221(b).

The error in the correspondence address on the front page of the publication was not an Office

[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).

error. The error in the correspondence address on the front page of the publication is due to the customer number 30158 listed on the application data sheet (ADS) filed with the application. Even if the Office had made an error in the correspondence address, it does not 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.

Applicant's request for a corrected patent application publication on July 8, 2004, may constitute a "failure to engage in reasonable efforts to conclude processing or examination of the application." See 1.704(c). This determination will be made on or after a mailing of a Notice of Allowance.

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

Any request for republication under 37 CFR 1.221(a), must 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 (571) 272-7709 (voice).

Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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TRASK BRITT
P. O. BOX 2550
SALT LAKE CITY, UT 84110

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OFFICE OF PETITIONS

In re Application of
Steven M. Blair et al
Application No. 10/350,361
Filed: January 23, 2003
Attorney Docket No. 0274-4789.1US

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 9, 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 Allen C. Turner on behalf of all attorneys of record. As per the request, all of the attorneys/agents of record have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant. If the firm of Thorpe North & Western, appearing on the request to withdraw, desires to receive future correspondence regarding this file, the appropriate power of attorney documents must be submitted. If the power of attorney document is signed by an assignee, compliance with 37 CFR 3.73(b) must be satisfied. A courtesy copy of this decision is being mailed to the law firm appearing on the petition to withdraw.

Applicant is advised that a Notice of Non-Compliant Amendment (37 CFR 1.121) was mailed on July 12, 2007.

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

Frances Hicks
Petitions Examiner
Office of Petitions

cc:

Steven M. Blair
3434 E. 7590 South
Salt Lake City, UT 84121

Vaughn North
Thorpe North & Western
8180 South 700 East
Suite 350
Sandy, UT 84070

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JUL 2 9 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

DORSEY & WHITNEY LLP
INTELLECTUAL PROPERTY DEPARTMENT
250 PARK AVENUE
NEW YORK NY 10177

In re Application of: Cassiolato et al.
Application No. 10/350,376
Filed: January 23, 2003
For: FIELDBUS RELAY ARRANGEMENT AND METHOD FOR IMPLEMENTING SUCH ARRANGEMENT

DECISION ON PETITION
TO MAKE SPECIAL
(ACCELERATED EXAMINATION)
UNDER M.P.E.P. §708.02 (VIII)

This is a response to the petition filed January 23, 2003, under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **DISMISSED**.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in **37 CFR 1.17(h)**;

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The petition filed January 23, 2003 fails to adequately meet requirement (e) of the criteria set forth above. With respect to requirement (e), a complete detailed discussion of the (aforementioned most closely related) references has not been provided with the necessary specificity required under CFR 1.111 (b) and (c). Specifically, Petitioner has provided a general statement as to what the five cited references teach. In addition, Petitioner should ensure that the above discussion is directed to how the language of **each of the independent claims** are specifically distinguishable and patentable from the references provided in requirement (d) above. Applicant's statement that "none of the references disclose or suggest at least a claimed arrangement or method which controls at least one relay provided on a fieldbus network by utilizing fieldbus function blocks" is not sufficient to meet the requirement of a detailed discussion as required by 37 CFR 1.111 (b) and (c). For instance, independent claim 17 lacks the recitation regarding "controls at least one relay".

Petition to Make Special **DISMISSED**.

Petitioner is given one opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the mail date of this decision.

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.

Brian L. Johnson
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

AWK

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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DORSEY & WHITNEY LLP
INTELLECTUAL PROPERTY DEPARTMENT
250 PARK AVENUE
NEW YORK NY 10177

MAILED

NOV - 8 2005

Technology Center 2100

In re Application of: CASSIOLATO, et al.
Application No. 10/350,376
Filed: January 23, 2003
For: FIELDBUS RELAY ARRANGEMENT AND METHOD FOR IMPLEMENTING SUCH ARRANGEMENT

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION) UNDER M.P.E.P. §708.02 (VIII)

This is a response to the renewed petition filed 03 October 2005, under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special. The renewed petition was filed in response to a dismissal of the original petition filed 23 January 2003.

The Petition is **DENIED**.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

. . .

(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.

The original petition was dismissed for failing to meet requirement (e).

The renewed petition filed 15 August 2005 also fails to adequately meet requirement (e) of the criteria set forth above. The detailed discussion of the references is still not sufficient. The renewed petition urges that the references "have been described in detail so as to specifically point to the sections thereof that relate to relays and other related devices and functions". However, the discussion of the references fails to point to specific sections of the references, e.g., by citing either

column and line numbers or paragraph numbers of the references. Petition to Make Special **DENIED**.

The application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

Pinchus M. Laufer
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3599

ds

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Commissioner for Patents
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Dorsey & Whitney LLP
Intellectual Property Department
250 Park Avenue
New York, NY 10177

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NOV 2 0 2006

OFFICE OF PETITIONS

In re Application of :

Wayne Cohen :
Application No. 10/350,377 : DECISION ON PETITION
Filed: January 23, 2006 : TO WITHDRAW
Attorney Docket No. A35619 : 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 17, 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 Gary Abelev on behalf of all attorneys of record who are associated with Dorsey & Whitney LLP.

All attorneys/agents has 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 Wayne Cohen at the address indicated below.

The application is currently with the Board of Appeals and Interference awaiting decision on the appeal.

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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Mr. Wayne Cohen**
Managing Director
44 Convent Road
Silom Bangrak, Bangkok 10500
Thailand

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

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/350,377	01/23/2003	Wayne Cohen	A35619

CONFIRMATION NO. 2980

OC000000021280018

OC000000021280018

30873
DORSEY & WHITNEY LLP
INTELLECTUAL PROPERTY DEPARTMENT
250 PARK AVENUE
NEW YORK, NY 10177

Date Mailed: 11/17/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/11/2006.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

Terri S. Williams

TERRI S WILLIAMS
OP (571) 272-2991

FORMER ATTORNEY/AGENT COPY

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DEC 14 2009

OFFICE OF PETITIONS

Rod Morrison
P.O. Box 1681
Vero Beach FL 32961

In re Patent No. 6,929,837 :
Issue Date: August 16, 2005 :
Application No. 10/350,379 : ON PETITION
Filed: January 22, 2003 :
:

This is a decision on the petition under 37 CFR 1.378(c), filed October 13, 2009, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on August 17, 2009 for failure to pay the three and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

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

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

The patent file is being forwarded to Files Repository.

Terri Johnson
Petitions Examiner
Office of Petitions

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DIVISION

2009 OCT 16 PM 4:10

HS

PTO/SB/66 (03-09)
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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number

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

Docket Number (Optional)

RECEIVED

OCT 21 2009

OFFICE OF PETITIONS

Mail to: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
Fax: (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

Patent No. 6,929,837 Application Number 10/350,379

Issue Date August 16, 2005 Filing Date January 22, 2003

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number (or reissue patent number, if a reissue) and (2) the application number of the actual U.S. application (or reissue application) leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

Also complete the following information, if applicable

The above – identified patent

☐ Is a reissue of original Patent No. _____ original issue date _____

original application number _____ 10/19/2009 DALLEN 00000020 6929837

original filing date _____ 01 FC:1599 2130.00 OP

☐ resulted from the entry into the U.S. under 35 U.S.C. 371 of international application _____

filed on _____

CERTIFICATE OF MAILING (37 CFR 1.89(a))

I hereby certify that this paper (*along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class main in an envelope addressed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, or facsimile transmitted to the U.S. Patent and Trademark Office on the date shown below.

10-8-09
Date

Rod Morrison
Signature

Rod Morrison
Typed or Printed Name of Person Signing Certificate

12/14/2009 CKHLOK 00000005 6929837
01 FC:2551 490.00 OP
02 FC:1558 1640.00 OP

Adjustment date: 12/14/2009 CKHLOK
10/19/2009 DALLEN 00000020 6929837
01 FC:1599 -2130.00 OP

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450**

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

1. SMALL ENTITY

☑ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

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2. LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

3. MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition, unless it was paid earlier.

NOT Small Entity			Small Entity		
Amount	Fee	(Code)	Amount	Fee	(Code)
☐ $ _____	3 ½ yr fee	(1551)	☑ $ 490.00	3 ½ yr fee	(2551)
☐ $ _____	7 ½ yr fee	(1552)	☐ $ _____	7 ½ yr fee	(2552)
☐ $ _____	11 ½ yr fee	(1553)	☐ $ _____	11 ½ yr fee	(2553)

MAINTENANCE FEE BEING SUBMITTED $ 490.00

4. SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) of $ 1640.00 (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of a maintenance fee.

SURCHARGE FEE BEING SUBMITTED $ 1640.00

5. MANNER OF PAYMENT

☑ Enclosed is a check for the sum of $ 2130.00

☐ Please charge Deposit Account No. _____ the sum of $ _____

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

6. AUTHORIZATION TO CHARGE ANY FEE DEFICIENCY

☐ The Director is hereby authorized to charge any maintenance fee, surcharge or petition deficiency to Deposit Account No. _____

7. OVERPAYMENT

As to any overpayment made please

OR

☐ Credit to Deposit Account No. _____.

☑ Send refund check

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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.

8. STATEMENT

The delay in payment of the maintenance fee to this patent was unintentional.

9. PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

Signature(s) of Petitioner(s) — Date: 10-8-09

Rod Morrison
Typed or printed name(s)

Registration Number, if applicable

772-473-1771
Telephone Number

P.O. Box 1681, Vero Beach, FL 32961
Address

Address

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."

ENCLOSURES

☑ Maintenance Fee Payment

☑ Surcharge under 37 CFR 1.20(i)(2) (fee for filing the maintenance fee petition)

☐ _____

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Baker & Hostetler, LLP
Washington Square, Suite 1100
1050 Connecticut Avenue, N. W.
Washington, DC 20036

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MAR 0 8 2005

OFFICE OF PETITIONS

In re Application of :
Claude Arpin :
Application No. 10/350,383 : DECISION GRANTING PETITION
Filed: January 23, 2003 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 004312-0002 :

This is a decision on the petition, filed February 10, 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 3, 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 June 16, 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 2642 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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WASHINGTON, D.C. 20231
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Paper No. 4

Shahpar Shahpar
SNELL & WILMER L.L.P.
One Arizona Center
400 East Van Buren
Phoenix AZ 85004-2202

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MAY 12 2003

OFFICE OF PETITIONS

In re Application of:	:	
Jason W. Hardman and	:	
Craig R. Sharp	:	
Application No. 10/350,394	:	
Filed: January 23, 2003	:	
Title of Invention: EDGE	:	DECISION GRANTING STATUS
ATTACHMENT FOR THE BUCKET OF	:	UNDER 37 CFR 1.47(b)
EARTH MOVING EQUIPMENT	:	

This is in response to a Petition Under 37 C.F.R. 1.47(b), filed February 27, 2003, and supplemented via facsimile on May 7, 2003, to allow a person to whom an inventor (or inventors) has assigned or agreed in writing to assign the invention, or who otherwise shows sufficient proprietary interest in the matter justifying such action, to make application for patent on behalf of and as agent for the inventor(s).

The petition is **granted**.

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

Petitioner has demonstrated that the non-signing inventors, Jason W. Hardman and Craig R. Sharp, refuse to join the application after having been presented with the above-identified application and declaration for signature.

As provided in Rule 1.47(b), this Office will forward notice of this application's filing to the non-signing 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 forwarded to the Office of Initial Patent Examination for continued processing.

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

Derek L. Woods
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
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Mr. Jason W. Hardman
3116 W. 6620 South
West Jordan, UT 84121

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MAY 12 2003

OFFICE OF PETITIONS

LETTER

In re Application of:
Jason W. Hardman and
Craig R. Sharp
Application No. 10/350,394
Filed: January 23, 2003
Title of Invention: EDGE ATTACHMENT FOR THE BUCKET OF EARTH MOVING EQUIPMENT

Dear Mr. Hardman:

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

As 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: Shahpar Shahpar
SNELL & WILMER L.L.P.
One Arizona Center
400 East Van Buren
Phoenix AZ 85004-2202

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COMMISSIONER FOR PATENTS
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Mr. Craig R. Sharp
2648 E. Creighton Way
Salt Lake City, UT 84121

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MAY 12 2003

OFFICE OF PETITIONS

LETTER

In re Application of:
Jason W. Hardman and
Craig R. Sharp
Application No. 10/350,394
Filed: January 23, 2003
Title of Invention: EDGE ATTACHMENT FOR THE BUCKET OF EARTH MOVING EQUIPMENT

Dear Mr. Sharp:

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

As 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: Shahpar Shahpar
SNELL & WILMER L.L.P.
One Arizona Center
400 East Van Buren
Phoenix AZ 85004-2202

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OFFICE OF PETITIONS

AVAYA
DEMONT & BREYER, LLC
HOLMDEL, NJ 07733

In re Application of :
Doree D. **SELIGMANN** :
Application No. 10/350,399 : DECISION ON PETITION
Filed: January 23, 2003 : UNDER 37 CFR 1.137(b)
Attorney Docket No. **630-018us** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 17, 2009, to revive the above-identified application.

This application became abandoned as a result of petitioner's failure to file a complete and proper appeal brief within the time period provided in 37 CFR 41.37(a)(1). As a complete and proper appeal brief was not filed within one (1) month of the Notification of Non-Compliance with 37 CFR 41.37(c)(1), mailed March 25, 2009, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on April 26, 2009. See MPEP 1215.04.

Upon review of the application, it is determined that a supplement brief in response to the remand from the Board of Appeals was received on March 24, 2009. The supplemental brief crossed in the mail with the above noted Notification of Non-Compliance mailed on March 25, 2009. The supplemental brief has been entered.

In view of the above, the petition is **DISMISSED** as moot.

The application is being referred to Technology Center AU 2445 for appropriate action by the examiner on the supplemental appeal brief filed March 24, 2009 and re-submitted on December 17, 2009.

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 Monica A. Graves at (571) 272-7253.

Thurman K. Page
Petitions Examiner
Office of Petitions

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

Sonnenschein Nath & Rosenthal LLP
Wacker Drive Station, Sears Tower
P.O. Box #061080
Chicago IL 60606-1080

In re Patent No. 6,909,132 :
Issued: June 21, 2005 :
Application No. 10/350,420 : DECISION ON PETITION
Filed: January 24, 2003 :
Attorney Docket No. 09794353.0007 :

This is a decision on the request under 37 CFR 3.81(b) to correct the name of the assignee on the front page of the above-identified patent by way of a certificate of correction, filed August 3, 2006.

The petition is GRANTED.

Petitioners request issuance of a certificate of correction to include as assignees "FUJITSU LIMITED and SONY CORPORATION."

In accordance with 37 CFR 3.81(b), effective June 25, 2004,:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter [emphasis added]. *See also* MPEP 1481.01.

The instant petition has been reviewed and found in compliance with current Office provisions concerning certificates of correction to assignee data.

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

Inquiries regarding the issuance of a certificate of correction must be directed to the Certificate of Correction Branch.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 5

THORP REED & ARMSTRONG, LLP
ONE OXFORD CENTRE
301 GRANT STREET, 14TH FLOOR
PITTSBURGH, PA 15219-1425

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DEC 07 2004

OFFICE OF PETITIONS

In re Application of :
Jay McCormack, et al. :
Application No. 10/350,428 : NOTICE
Filed: January 24, 2003 :
Attorney Docket No. DB001053-001

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

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

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

Inquiries related to this communication should be directed to the Office of Petitions Staff at (571) 272-3201.

This file is being forwarded to Technology Center 2623 for examination in due course.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CRAIG W. RODDY
HALLIBURTON ENERGY SERVICES
P.O. BOX 1431
DUNCAN OK 73536-0440

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NOV 28 2006

OFFICE OF PETITIONS

In re Application of :
Ronald E. Sweatman et al :
Application No. 10/350,429 : ON PETITION
Filed: January 24, 2003 :
Attorney Docket No. HES 2000-IP-001848U1P1 :

This is a decision on the petition, filed November 20, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 11, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

The instant petition under 37 CFR 1.313(c)(2), the RCE and the IDS, filed on November 20, 2006, are not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Clifford C. Dougherty, III appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he act. However, if Mr. Dougherty desires to receive correspondence regarding this file, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision is being mailed

---

[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).

to Mr. Dougherty, the petitioner herein. Until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

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

This matter is being referred to Technology Center Art Unit 3672 for processing of the request for continued examination under 37 CFR 1.114 filed November 20, 2006.

Karen Creasy
Petitions Examiner
Office of Petitions

cc:
MCAFEE & TAFT
TENTH FLOOR, TWO LEADERSHIP SQUARE
211 NORTH ROBINSON
OKLAHOMA CITY, OKLAHOMA 73102

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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BIOLOGICAL PATENT SERVICES, LLC
8424 40th AVE N.
NEW HOPE MN 55427

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OFFICE OF PETITIONS

ON PETITION

In re Patent No. PP15,593 :
Application No. 10/350,432 :
Filed: January 24, 2003 :
Issued: February 22, 2005 :
Attorney Docket No. 09531-085001 :

This is a decision on the petition filed July 15, 2005, which is being treated as a request under 37 CFR 3.81[1] to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

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

Telephone inquiries should be directed to Petitions Examiner Liana Chase at (571) 272-3206. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Corrections Branch at (703) 305-8309.

This matter is being referred to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Frances Hicks
Petitions Examiner
Office of Petitions

[1] See Official Gazette of June 22, 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

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CARR LLP
670 FOUNDERS SQUARE
900 JACKSON STREET
DALLAS TX 75202

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SEP 02 2008

In re Application of :
Billings, et al. :
Application No. 10/350,446 : DECISION
Filed: 24 January, 2003 :
Attorney Docket No. DOG 2394000 :

This is a decision on the petition filed on 15 April, 2008, considered as a petition under 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application

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

As to the Request to Withdraw
the Holding of Abandonment

A proper showing (for relief under 37 C.F.R. §1.181):

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

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

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

BACKGROUND

The record reflects as follows:

Petitioner failed to reply to the non-final (supplementary) Office action (a Notice of a not-fully-responsive amendment) mailed on 15 November, 2007, with reply due absent extension of time on or before 15 December, 2007.

The application went abandoned by operation of law after midnight 15 December, 2007.

The Office mailed the Notice of Abandonment on 28 March, 2008.

On 15 April, 2008, Petitioner filed the instant petition averring, *inter alia*, that a reply in the form of an amendment could be timely filed as late as 15 April, 2008, and Petitioner included therewith a reply in the form of an amendment, with a request and fee for extension of time.

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (*see*: 37 C.F.R. §1.181(f)), and that those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

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

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

Allegations as to the Request to
Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[2] (*See*, also, the commentary at MPEP §711.03(c)(I)(A) and (B).) And the regulation requires that relief be sought within two (2) months of the act complained of.

Petitioner appears to have satisfied the showing required.

CONCLUSION

Accordingly, The petition under 37 C.F.R. §1.181 is **granted** and the 28 March, 2008, Notice of Abandonment is **vacated**.

The instant application is released to Technology Center/AU 3711 for further processing in due course.

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

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[3]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

---

2 See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 6

RADER, FISHMAN & GRAUER PLLC
39533 WOODWARD AVENUE
SUITE 140
BLOOMFIELD HILLS MI 48304-0610

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JUN 12 2003

OFFICE OF PETITIONS

In re Application of
Morrison, et al.
Application No. 10/350,449
Filed: January 24, 2003
Attorney Docket No. 65857-0074
For: SWAGING TOOL INCLUDING SYSTEM TO DETERMINE WHEN CONNECTOR IS IN A PROPER POSITION FOR ASSEMBLY

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

This is in response to the petition under 37 CFR 1.47(a), filed May 9, 2003 (certificate of mailing date May 7, 2003).

The petition is dismissed.

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

The above-identified application was filed on January 24, 2003 without an executed oath or declaration. Accordingly, on March 7, 2003, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration and a surcharge for its late filing.

In response, on May 9, 2003 (certificate of mailing date May 7, 2003), a declaration executed by three of four inventors, the surcharge, the petition fee, and the instant petition were filed. The petition states that non-signing inventor Russell Bissinger was mailed a combined declaration and power or attorney and an assignment, but the inventor did not respond to the request that he sign the oath or declaration for the patent application.

A grantable petition under 37 CFR 1.47(a) requires

(1) a petition including proof of the pertinent facts establishing that the joint inventor(s) refuses to join, or cannot be found or reached after diligent effort,
(2) a proper oath or Declaration executed by the available joint inventor(s),
(3) the fee of $130 as specified in 37 CFR § 1.17(h), and
(4) the last known address of the omitted inventor(s).

This petition lacks item (1) above.

As to item (1), Applicants have failed to establish that the inventor has refused to sign the declaration. The proof of the pertinent events should be made by a statement of someone with

first hand knowledge of the events. The Office requires that the non-signing inventors be provided with a complete copy of the application as filed. This includes the specification with claims, drawings, if any, and a declaration. See MPEP 409.03(d). The petition and Exhibit A to the petition do not establish that a complete copy of the application was mailed to Inventor Bissinger at his last known address.

Mr. Bissinger must have the complete application in his possession in order to make an informed decision as to whether he joins in its filing. When petitioners can show that Mr. Bissinger was mailed or received the complete application and that he either refused to sign the declaration or would not respond to the request that he sign the declaration, petitioners will have satisfied this requirement.

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

By mail:
Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450
Attn: E. Shirene Willis

By facsimile:
(703) 308-6916
Attn: Office of Petitions -- E. Shirene Willis

By hand:
Office of Petitions
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA 22202
Attn: E. Shirene Willis

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

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

RADER, FISHMAN & GRAUER PLLC
39533 WOODWARD AVENUE
SUITE 140
BLOOMFIELD HILLS MI 48304-0610

COPY MAILED

AUG 2 1 2003

OFFICE OF PETITIONS

In re Application of
Morrison, et al.
Application No. 10/350,449
Filed: January 24, 2003
Attorney Docket No. 65857-0074
For: SWAGING TOOL INCLUDING SYSTEM TO DETERMINE WHEN CONNECTOR IS IN A PROPER POSITION FOR ASSEMBLY

: 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 14, 2003 (certificate of mailing date August 12, 2003).

The petition is granted.

Petitioners have shown that the non-signing inventor, Russell D. Bissinger, has constructively refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the reconsideration petition signed by Attorney Bradley J. Diedrich establishes that the inventor was mailed the application papers, including the specification, claims and drawings, but the inventor failed to respond to the request that he sign the declaration within a reasonable amount of time. Petitioners have submitted a declaration in compliance with 37 CFR 1.63 and 1.64.

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

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

After this decision is mailed, the above-identified application will be forwarded to Technology Center 3700 for examination in due course.

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

Pet. Dec.

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: MAY 18 2004 CST

In re application of
Rodney M. LaFollette et al
Serial No. 10/350,474
Filed: January 24, 2003
For: MICROSCOPIC BATTERIES FOR MEMS SYSTEMS

DECISION ON PETITION

This is a decision on the petition filed April 8, 2004 requesting that the above-identified application be granted Special Status under sections 708.02 (V) and (VI) of the MPEP and 37 CFR 1.102(c) – no fee required.

The request for Special Status is granted because the criteria set forth in MPEP 708.02 (V) and (VI) and 37 CFR 1.102(c) has been met.

The petition is GRANTED.

Christine Tierney
Special Program Examiner, Technology Center 1700
571-272-1055

Lynn G. Foster
602 E. 300 S.
Salt Lake City UT 84102

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

2-28-07

gm

In re application of	:	
LaFollette et al.	:	DECISION
Serial No. 10/350,474	:	DISMISSING
Filed: January 24, 2003	:	PETITION
For: Method of Making Microscopic	:	
Batteries for MEMS Systems	:	

This is a decision on the PETITION UNDER 37 CFR 1.181(a) filed on July 3, 2006, and the supplemental petition filed January 11, 2007.

The petitions are before the Director of Technology Center 1700 for consideration.

The petitions are **DISMISSED** for the reasons below.

DECISION

37 CFR 1.181(f) states:

> (f) The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. Any petition under this part not filed within two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely, except as otherwise provided. This two-month period is not extendable.

The action complained of in the instant petitions appears to be the examiner's refusal to issue an Examiner's Answer in response to the appeal brief of January 24, 2003, which action took place most recently in the final rejection mailed September 26, 2005. Over nine months passed between that action and the instant petitions, which are therefore untimely.

Accordingly, the petitions of July 3, 2006 and January 11, 2007 are **DISMISSED** as untimely.

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

10/350,474

Lynn G. Foster
602 East 300 South
Salt Lake City UT 84102

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

4-5-07

gm

In re application of :
LaFollette et al. : DECISION
Serial No. 10/350,474 : DISMISSING
Filed: January 24, 2003 : PETITION
For: Method of Making Microscopic :
Batteries for MEMS Systems :

This is a decision on the PETITION UNDER MPEP 1002.02(c) filed on March 20, 2007. Similar petitions filed 7/3/06 and 1/11/07 were previously dismissed as untimely.

The instant petition is before the Director of Technology Center 1700 for consideration.

The petition is **DISMISSED** for the reasons below.

DECISION

37 CFR 1.181(f) states:

> (f) The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. Any petition under this part not filed within two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely, except as otherwise provided. This two-month period is not extendable.

Petitioner states "because the jurisdiction of the Board was properly invoked... this Petition is not subject to dismissal as being untimely." The timeliness requirements of 37 CFR 1.181(f) apply to the instant application, applicant's unsupported assertion to the contrary notwithstanding.

The action complained of in the instant petitions appears to be the examiner's refusal to issue an Examiner's Answer in response to the appeal brief of January 24, 2003, which action took place most recently in the final rejection mailed September 26, 2005. Over 17 months passed between that action and the instant petition, which is therefore untimely.

Accordingly, the petition of March 20, 2007 is **DISMISSED** as untimely.

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Lynn G. Foster
602 East 300 South
Salt Lake City UT 84102

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/350,474	01/24/2003	Rodney M. LaFollette	7310.D1C	3901

7590 12/18/2007

Lynn G. Foster
602 East 300 South
Salt Lake City, UT 84102

EXAMINER	
ALEJANDRO, RAYMOND	

ART UNIT	PAPER NUMBER
1795	

MAIL DATE	DELIVERY MODE
12/18/2007	PAPER

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

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

UNITED STATES 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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12-18-07

wk

In re application of	:	
LaFollette et al.	:	DECISION
Serial No. 10/350,474	:	DISMISSING
Filed: January 24, 2003	:	PETITION
For: Microscopic Batteries For MEMS Systems	:	

This is a decision on the PETITION TO RECONSIDER DECISION OF TECHNOLOGY CENTER DIRECTOR filed April 23, 2007.

The previous petitions were dismissed under 37 CFR 1.181(f) which states that any petition under this part not filed within two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely.

The examiner refused to issue an Examiner's Answer in response to the appeal brief of January 24, 2003, which action took place most recently in the final rejection mailed September 26, 2005. Petitioner asserts that the Examiner must honor the subject matter jurisdiction of the Board by timely fling his Examiner's Answer. The timeliness requirement of 37 CFR 1.181(f) does apply to the instant petition, contrary to applicant's assertion. Over 17 months have passed between the examiners final rejection of September 26, 2005 and the instant petition of April 23, 2007.

DECISION

Accordingly, the petition for reconsideration of April 23, 2007 is **DISMISSED.**

Jacqueline M. Stone/wz

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Lynn G. Foster
602 East 300 South
Salt Lake City UT 84102

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/350,478	01/24/2003	Wilfred Wayne Lautt	14217.3USU1

CONFIRMATION NO.
3226

MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

Date Mailed: December 27, 2005

Decision Dismissing Petition under 37 CFR 1.138(c)

The declaration of express abandonment will not be recognized

This is in response to the petition under 37 CFR 1.138(c), for express abandonment to avoid publication of the above-identified application.

The petition is dismissed.

The express abandonment will **not** be recognized for the reason(s) indicated below:

1. ☐ The petition under 37 CFR 1.138(c) was not filed in sufficient time to permit the appropriate officials to recognize the abandonment and remove the application from the publication process.

2. ☑ The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).

3. ☑ The Application was published in compliance with 35 U.S.C. 122(b), and it is available on the USPTO web site at http://www.uspto.gov/patft/index.html.

The application **has/will be published** as scheduled.

Telephone inquiries should be directed Office of Patent Publication, Pre-Grant Publication Division, 703-605-4283.

Barbara J. Debnam
Office of Patent Publication
Pre-Grant Publication Division

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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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09012005

GIFFORD, KRASS, GROH, SPRINKLE & CITKOWSKI, P.C
PO BOX 7021
TROY MI 48007-7021

In re Application of:
David Angeley.
Serial No.: 10/350,508
Filed: January 24, 2003
Attorney Docket No.: ERIM-47602/03

DECISION *SUA SPONTE*
WITHDRAWING HOLDING
OF ABANDONMENT

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

A premature Notice of Abandonment was mailed to the applicant August 26, 2005.

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 and under appeal status in view of the fact that the statutory period had not expired and the applicant filed a response on August 23, 2005, which was not available to the examiner at the time of the mailing of the notice, but has since been associated with the file.

The application has been forwarded to the examiner for further examination.

Any inquiry regarding this decision should be directed to Gregory J. Toatley, Jr., at (571) 272-2059.

Janice A. Falcone, Group Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 6

ANDERSON & MORISHITA
SUITE 102
2725 S. JONES BLVD.
LAS VEGAS, NV 89146

COPY MAILED

FEB 2 4 2004

OFFICE OF PETITIONS

In re Application of :
Warren Smith et al :
Application No. 10/350,539 : ON PETITION
Filed: January 24, 2003 :
Attorney Docket No. SMITHWA02-01 :

This is a decision on the petition under 37 CFR 1.137(b), filed February 17, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers (Notice) mailed March 10, 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 11, 2003.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 305-9282.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MATHEWS, COLLINS, SHEPHERD & McKAY, P.A.
SUITE 306
100 THANET CIRCLE
PRINCETON, NJ 08540

COPY MAILED

APR 19 2007

OFFICE OF PETITIONS

In re Application of :
Yogendra Sharma et al :
Application No. 10/350,558 : DECISION ON PETITION
Filed: January 24, 2003 :
Attorney Docket No. 4752-106 us :

This is a decision on the petition under 37 CFR 1.137(b), filed September 11, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed January 24, 2006, which set a shortened statutory period for reply of three (3) months. A three (3) month extension of time was obtained under the provisions of 37 CFR 1.136(a). Accordingly, the application became abandoned on July 25, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the required reply in the form of the filing of a request for continued examination (RCE), $790 filing fee for the RCE, and submission as required under 37 CFR 1.114, (2) the petition fee of $1,500, and (3) a proper statement of unintentional delay. Accordingly, the failure to timely reply to the Office action of January 24, 2006 is accepted as being unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,590 extension of time fee submitted on August 21, 2006 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account as authorized.

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.

This application is being referred to Technology Center AU 1631 for processing of the RCE and for appropriate consideration in the normal course of business of the submission under 37 CFR 1.114.

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

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

cc:

Christopher S. Casieri
Mathews, Collins, Shepherd & McKay, PA
29 Thanet Road, Suite 201
Princeton, NJ 08540

UNITED STATES PATENT AND TRADEMARK OFFICE

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DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFI
WASHINGTON, DC 202
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APR - 1 2003

Paper No. 4

In re Application of	:	
James B. Braswell, III	:	:
Serial No. 10/350,578	:	DECISION ON PETITION
Filed: January 24, 2003	:	TO MAKE SPECIAL
For: SPILL-FREE SNACK CONTAINER	:	

Applicant's petition, filed January 24, 2003, requests special status for advanced examination out of turn under the Accelerated Examination Program, MPEP 708.02(VIII). The petition is DISMISSED.

A petition under MPEP 708.02(VIII) requires (1) a petition and the fee therefor, (2) the presentation of all claims directed to a single invention or a statement that applicant will, without traverse, elect a single invention for prosecution if required to do so, (3) a statement that a pre-examination search was made, specifying whether the search was made by the inventor, the attorney, if any, a professional searcher, etc., and listing the field of search by class and subclass, (4) a copy of each reference deemed closely relevant to the claimed subject matter, and (5) a detailed discussion of the documents in which it is pointed out with particularity how the claimed subject matter distinguishes over the references. Applicant's petition lacks items (2) and (5) above.

Applicant may renew the petition by supplying the required items listed above, along with a paper styled "Renewed Petition to Make Special", directed to the attention of Technology Center 3700, and identified by application Serial Number.

E. Rollins-Cross, Director
Technology Center 3700

James B. Braswell, III
1012 Mark Twain Drive
Allen, TX 75002

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Alexandria, VA 22313-1450
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STEPHAN A. PENDORF, P.A.
PENDORF & CUTLIFF
5111 MEMORIAL HIGHWAY
TAMPA, FL 33634

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DEC 15 2006
OFFICE OF PETITIONS

In re Application of :
Chela et al. :
Application No.: 10/350,584 : DECISION ON
Filing or 371(c) Date: 01/24/2003 : PETITION
Title of Invention: TAMPER EVIDENT CAP :

This is a decision in response to the Petition to Withdraw Notice of Abandonment/Revive Abandoned Application, filed September 11, 2006. The petition is properly treated under 37 CFR 1.181 (no fee).

This Petition under 37 CFR 1.181 is **dismissed**.

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

Background

The above-identified application became abandoned for failure to timely and properly reply to the non-final office action, mailed June 28, 2004. The Office action set a three (3) month period for reply. No extensions of time were available.

Applicant asserts that the Office action was never received. Applicant states that the previous attorney of record for this application joined another law firm and because of transitioning his docket records into the new docketing system the docket record for this application is unavailable.

Petition under 37 CFR 1.181

Applicable Law, Rules and MPEP

The MPEP 711.03(c)A, Petition To Withdraw Holding of Abandonment Based on Failure To Receive Office Action, provides

> In Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of Delgar, an allegation that an Office action was never received may be considered in a petition to withdraw the

> holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of Delgar is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133). To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions). (Emphasis supplied)

MPEP 711.03(c)

Analysis and conclusion

A review of Office records reveals that the Office action was mailed on June 28, 2004, and returned to this Office on July 28, 2004 as undeliverable by the U.S.P.S. Thereafter, on July 27, 2004 this Office received a Change of Correspondence Address executed by the previous attorney of record.

As such, evidence points to a conclusion that the Office action was properly mailed by this Office to the correspondence address of record at the time the Office action was mailed.

Also, Applicant is unable to comply with the requirements set forth in Delgar, above. Accordingly, the petition is dismissed.

The petition to revive under 37 CFR 1.137(b)

Applicant has file an Amendment in response to the Office action. Accordingly, the petition is granted.

The petition fee has been charged to deposit account 50-0951 as authorized in the petition.

The application file indicates that a change of address has been filed with the present petition; however, the Change of Correspondence Address has been executed by someone other than the attorney of record. Applicant must file the appropriate revocation/appointment of Power of

Attorney executed by a proper party in interest before Applicant is authorized to change the correspondence address. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

The application is being referred to Technology Center Art Unit 3725 for continued processing in due course.

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

Derek L. Woods
Attorney
Office of Petitions

CC: AKERMAN SENTERFITT
P.O. BOX 3188
WEST PALM BEACH, FL 33402-3188

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NATIONAL CTR FOR AGRICULTURAL UTILIZATION RESEARCH
1815 N. UNIVERSITY STREET
PEORIA, IL 61604

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Nichols, et al. :
Application No. 10/350,591 :
Filed: January 24, 2003 :
Attorney Docket No. 0097.02

This is a decision on the petition under 37 CFR 1.137(a), filed August 5, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply to the non-final Office action mailed October 6, 2004, which set a period for reply of three (3) months from its mailing date. Extensions of the time set for reply were available pursuant to 37 CFR 1.136(a). A proper response was not received within the allowed period, and the application became abandoned on January 7, 2005. A Notice of Abandonment was mailed on June 27, 2005.

Petitioner has established that an amendment responsive to the non-final Office action was mailed on December 16, 2004, but not received by the Office.

The file is now being forwarded to Technology Center 1600, GAU 1651 for further processing and treatment of the amendment first mailed December 16, 2004, and filed in duplicate with the instant petition on July 27, 2005.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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MAR - 3 2005

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MAR 3 2005

OFFICE OF THE DIRECTOR
TC 3600

HARNESS, DICKEY & PIERCE, P.L.C
P.O. Box 828
Bloomfield Hills, MI 48303

In re Application of	:	NOTICE OF
Sean Barrett et al	:	WITHDRAWAL
Serial No: 10/350,605	:	FROM ISSUE
Filed: January 24, 2003	:	UNDER 37 CFR 1.313(b)
For: PRESSURE BLEEDING BOOT-TYPE SEAL	:	

The above-identified application is withdrawn from issue after payment of the issue fee due to unpatentability of one or more claims. See 37 CFR 1.313(b)(3).

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 Charles Marmor at (703) 308-0830.

The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

Robert Oberleitner, Director
Patent Technology Center 3600
(703) 308-1134

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Paper No. 4

ANTONIO R. DURANDO
DURANDO BIRDWELL & JANKE PLC
2929 E. BROADWAY BLVD.
TUCSON, AZ 85716

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OFFICE OF PETITIONS

In re Application of :
David Yiu et al :
Application No. 10/350,613 : NOTICE
Filed: January 24, 2003 :
Attorney Docket No. 5326.62061

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 3600.

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

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THERAVANCE, INC.
901 GATEWAY BOULEVARD
SOUTH SAN FRANCISCO CA 94080

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Thomas E. Jenkins et al :
Application No. 10/350,624 :
Filed: January 24, 2003 :
Attorney Docket No. P-139-US1 :

This is a decision on the petition, filed February 3, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on November 10, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 1624 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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901 GATEWAY BOULEVARD
SOUTH SAN FRANCISCO, CA 94080

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FEB 15 2005

OFFICE OF PETITIONS

In re Application :
Jenkins, et al. :
Application No. 10/350,624 : PATENT TERM ADJUSTMENT
Filed: January 24, 2003 :
Dkt. No.: P-139-US1 :

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 October 4, 2004.

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

The Office will adjust the PAIR screen to reflect that the Patent Term Adjustment (PTA) determination at the time of mailing of the Notice of Allowance and Issue Fee Due reflects an adjustment of 65 days. A copy of the updated PAIR screen showing the correct determination is enclosed.

Applicants request that the Determination of Patent Term Adjustment be corrected from 59 days as indicated on the Determination of Patent Term Adjustment mailed September 20, 2004 to 65 days.

A review of the application history reveals that an adjustment of 65 days can be attributed to the Office for failure to mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 in an international application. *See*, 37 CFR 1.702(a)(1). The adjustment began March 25, 2004, the day after the date that is fourteen months from the date the application was filed, and ended May 28, 2004, the date the non-final Office action was mailed. *See*, 37 CFR 1.703(a)(1).

The Office errantly entered August 26, 2004 as the date a supplemental reply to the non-final rejection mailed May 28, 2004 was submitted. Review of the application history reveals

that, as argued by applicant, on August 20, 2004, an amendment was improperly entered into the application file of the instant application. Said amendment was later removed and entered into the proper application file. Thus, a response to the non-final rejection was timely submitted on August 26, 2004 and there were no supplemental replies submitted. There was no failure by applicant to engage in reasonable efforts to conclude prosecution of the application and the six days of reduction previously entered has been restored.

In view thereof, at the time of Notice of Allowance the application is entitled to a patent term adjustment of 65 days as argued by applicant.

The required PTA application fee $200.00 has been charged to Deposit Account No. 50-0344 as authorized in the instant application.

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

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

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

Enclosure: Copy of Adjustment PAIR Calculation

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SANDRA J. LASKEY
7311 WAITE DRIVE, #A
LA MESA CA 91941

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DEC 17 2004

OFFICE OF PETITIONS

In re Application of :
Sandra Jean Laskey :
Application No. 10/350,675 : ON PETITION
Filed: January 27, 2003 :
Attorney Docket No. N/A :

This is a decision on the petition under 37 CFR 1.137(a), filed October 28, 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)."

This application became abandoned for failure to timely pay the issue fee and publication fee, if applicable, on or before July 6, 2004. Accordingly, this application became abandoned on July 7, 2004. A Notice of Abandonment was mailed on August 9, 2004.

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by:

(1) The required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing 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 § 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.

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.

In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 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).

Petitioner appears to assert that the delay was caused by mis-communication and/or financial issues between the applicant and the previous attorney of record. Please note, the Patent and Trademark Office must rely on the actions or inactions of duly authorized and voluntarily chosen representatives of the applicant, and applicant is bound by the consequences of those

actions or inactions. Link v. Wabash, 370 U.S. 626, 633-34 (1962). Specifically, petitioner's delay caused by the mistakes or negligence of their voluntarily chosen representative does not constitute unavoidable delay within the meaning of 35 USC 133 or 151 or 37 CFR 1.137(a). Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (D. Ind. 1987); Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1981 Dec. Comm'r Pat. 130, 131 (Comm'r Pat. 1981).

Furthermore, please note, The Patent and Trademark Office is not the proper forum for resolving disputes between applicants and their representatives. See Ray v. Lehman, 55 F.3d 606, 34 USPQ2d 1786 (Fed. Cir. 1995).

Additionally, a delay resulting from the lack of knowledge or improper application of the patent statute, rules of practice or the MPEP does not constitute an "unavoidable" delay. See Haines v. Quigg, 673 F. Supp. 314, 317, 5 USPQ2d 1130, 1132 (N.D. Ind. 1987), Vincent v, Mossinghoff, 230 USPQ 621, 624 (D.D.C. 1985); Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (1891).

Accordingly, the showing of record is not sufficient to establish to the satisfaction of the Commissioner that the delay was unavoidable within the meaning of of 35 USC 151 and 37 CFR 1.137(a). See MPEP 711(c)(III)(C)(2) for a discussion of the requirements for a showing of unavoidable delay.

Petitioner may wish to consider filing a renewed petition under amended 37 C.F.R. § 1.137**(b)**. 37 C.F.R. § 1.137(b) now provides that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 C.F.R. § 1.137(b). A grantable petition pursuant to 37 C.F.R. § 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 § 1.17(m), currently $750.00 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 37 C.F.R. § 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to 37 C.F.R. § 1.137(c).

The Manual of Patent Examining Procedure, Section 711.03(c), provides a general discussion of the procedures for filing a petition to revive an abandoned application. A copy of the section is forwarded herewith for your information.

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

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

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

By hand: Customer Service Window
2011 South Clark Place
Crystal Plaza Two (left side entrance of building)
Arlington, VA

Telephone inquiries should be directed to the undersigned at (571)272-3228.

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

Attachments:
MPEP 711.03(c)
Form PTO/SB/64
Form PTO-2038

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SANDRA J. LASKEY
7311 WAITE DRIVE, #A
LA MESA, CA 91941

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APR 2 8 2005

OFFICE OF PETITIONS

In re Application of	:	
Sandra Jean Laskey	:	
Application No. 10/350,675	:	ON PETITION
Filed: January 27, 2003	:	
Attorney Docket No. N/A	:	

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

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee and publication fee, if applicable, on or before July 6, 2004. Accordingly, this application became abandoned on July 7, 2004. A Notice of Abandonment was mailed on August 9, 2004.

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

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

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

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OFFICE OF PETITIONS

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

In re Application of :
Kenneth E. Feuerman :
Application No. 10/350,699 : DECISION ON PETITION
Filed: January 23, 2003 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 07844-312002 :

This is a decision on the petition, filed April 9, 2007, 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 May 24, 2000. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

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

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

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

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

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of October 18, 2007 accompanies this decision on petition.

A Notice of Allowability and a Notice of Allowance and Fee(s) Due were mailed in this case on January 9, 2007. However, in view of the nonpublication request filed with the application, the Notice of Allowance and Fee(s) Due mailed in this case did not require the submission of a publication fee. Accordingly, as authorized, the $300 publication fee will be charged to petitioner's deposit account. **If publication of the application does not occur, applicant may file a request for a refund after the patent issues. See 37 CFR 1.211(e).**

This application is being forwarded to Publishing Division to await further processing.

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

Frances M. Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/350,699	01/23/2003	Kenneth E. Feuerman	07844-312002

CONFIRMATION NO. 6328

21876
FISH & RICHARDSON P.C.
P.O. Box 1022
MINNEAPOLIS, MN 55440-1022

Date Mailed: 07/09/2007

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 10/18/2007.

If applicant rescinded the nonpublication request before or on the date of "foreign filing,"[1] then no notice of foreign filing is required.

If applicant foreign filed the application after filing the above application and before filing the rescission, and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv), 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

If a notice of foreign filing is required and is not filed within 45 days of the date of foreign filing, then the application becomes abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). In this situation, applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282. Questions regarding publications of patent applications should be directed to the patent application publication hotline at (703) 605-4283 or by e-mail pgpub@uspto.gov.

[1] Note, for purpose of this notice, that "foreign filing" means "filing an application directed to the same invention in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing".

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 120903

Stephen H. Silder
3 Highridge Dr.
Monroe, CT 06468

MAILED

DEC 15 2003

OFFICE OF DIRECTOR
GROUP

In re Application of
STEPHEN H. SILDER
Application No. 10/350,705
Filed: January 27, 2003
For: Electrically Conductive Synthetic ...

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition under 37 C.F.R. § 1.102, filed January 27, 2003, to make the above-identified application special. No fee is required for this petition.

Petitioner requests that the above-identified application be made special under the accelerated examination procedure set forth in M.P.E.P. § 708.02, Item IV: Applicant's Age.

The petition is GRANTED.

A grantable petition to make special under 37 C.F.R. § 1.102 and in accordance with M.P.E.P. § 708.02, Item IV, must include a showing, as by a birth certificate or the applicant's affidavit or declaration, that the applicant is sixty five (65) years of age or more.

The petition includes a copy of applicant's passport showing that applicant is sixty five (65) years of age or more.

The application is being forwarded to the examiner for expedited prosecution.

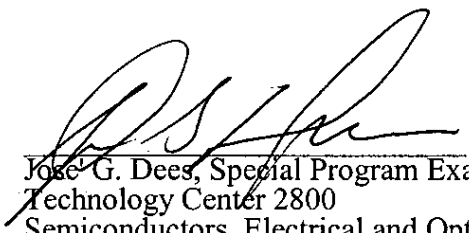
If the examiner can make this application special without prejudice to any possible interfering applications, and he/she should make a rigid search for such, he/she is authorized to do so for the next action. Should the application be rejected, the application will not be considered special for the subsequent action unless the applicant promptly makes a bona fide effort to place the application in condition for allowance, even if it is necessary to have an interview with the examiner to accomplish this purpose.

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

Should an appeal be taken in this application or should this application becomes involved in an interference, consideration of the appeal and the interference will be expedited by all Patent and Trademark Office officials concerned, contingent likewise upon diligent prosecution by the applicant.

After allowance, this application will be given priority for printing. See M.P.E.P. § 1309.

The petition is granted to the extent indicated.



Jose G. Dees, Special Program Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

PAGE 2/2 * RCVD AT 11/22/2003 10:15:35 AM [Eastern Standard Time] * SVR:USPTO-EFXRF-2/0 * DNIS:7465141 * CSID: * DURATION (mm-ss):01-36

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 6

HERBERT KEUCHEL
175 MUFFIN LANE
CUYAHOGA FALLS, OH 44223

COPY MAILED

FEB 2 6 2004

OFFICE OF PETITIONS

In re Application of :
Herbert Willie Keuchel et al :
Application No. 10/350,707 : ON PETITION
Filed: January 24, 2003 :
Attorney Docket No. :

This is a decision on the petition under 37 CFR 1.137(b), filed January 6, 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)." Petitioner is advised that this is **not** a final agency action decision.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: (1) the required reply (unless previously filed), which may met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute, but must be the payment of the issue fee or any outstanding balance thereof in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)).

All the requirements being met. However, the petition lacks the signature of the second inventor. 37 CFR 1.33 (b) states that amendments and other papers, except for written assertions pursuant to § 1.27 (c)(2)(ii) of this part, filed in the application must be signed by:

(1) A registered attorney or agent not of record who acts in a representative capacity under provisions of § 1.34(b);

(2) A registered attorney or agent not of record who acts in a representative capacity under the provisions of § 1.34(a);

(3) An assignee as provided for under § 3.71(b) of this chapter; or

(4) **All of the applicants** (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HERBERT KEUCHEL
175 MUFFIN LANE
CUYAHOGA FALLS, OH 44223

COPY MAILED

APR 19 2004

OFFICE OF PETITIONS

In re Application of :
Herbert Willie Keuchel et al :
Application No. 10/350,707 : ON PETITION
Filed: January 24, 2003 :
Attorney Docket No. :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed March 19, 2004, to revive the above-identified application.

The petition is **GRANTED**.

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

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

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 306-5685. The application file is being forwarded to the Office of Initial Patent Examination.

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

cc: ANDREW SAYKO
P.O. BOX 6339
SHALLOTTE, NC 28470

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

Andrew F. Sayko Jr.
1014 Crooked Oaks Lane
Seabrook Island, SC 29455-6502

COPY MAILED

NOV 0 4 2005

OFFICE OF PETITIONS

In re Application of Keuchel et al. :
Application No. 10/350,707 : Decision on Petition
Filing Date: January 24, 2003 :
Attorney Docket No. SPUNFAB-2 :

This is a decision on the petition under 37 CFR 1.137(a), filed August 8, 2005, to revive the above-identified application.

The petition is **DISMISSED**.

Facts:

A petition to revive the application under 37 CFR 1.137(b) was filed on March 19, 2004.

The petition was signed by attorney Sakyo and contained an address different than the address of record.

Address of record	Address on petition
Herbert Keuchel	Andrew F. Sayko, Jr.
175 Muffin Lane	PO Box 6339
Cuyahoga Falls, OH 44223	Shalotte, NC 28470

A decision granting the petition was mailed on April 19, 2004. A copy of the decision was sent to the address of record and the address listed on the petition. The decision noted that Office records failed to indicate Sayko was an attorney of record and stated,

> While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address of ... record until such time as appropriate instructions are received to the contrary.

Neither a power of attorney nor change of address was filed. Therefore, an Office action mailed on November 2, 2004, was mailed to the address of record in Cuyahoga, OH. The non-final Office action set a shortened statutory period for reply of (1) month or thirty (30) days whichever is later).

Attorney Sayko did not receive the Office action. Therefore, petitioner did not submit a reply to the Office action.

The application became abandoned as of midnight on December 2, 2004.

A Notice of Abandonment was mailed on June 30, 2005.

During a phone call from the examiner, petitioner learned the application was abandoned. The examiner sent attorney Sayko a copy of the November 2, 2004 Office action.

Analysis:

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 Office action was not received because petitioner failed to file a request to change the address. Petitioner has failed to prove the failure to change the address was reasonable and prudent. Therefore, the petition cannot be granted.

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 ($750 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.

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.

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."

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

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.

If a request for reconsideration is not filed the application will remain abandoned.

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: PTO/SB/64

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Andrew F. Sayko Jr.
1014 Crooked Oaks Lane
Seabrook Island, SC 29455-6502

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FEB 24 2006

OFFICE OF PETITIONS

In re Application of Keuchel et al. :
Application No. 10/350,707 : Decision on Petition
Filing Date: January 24, 2003 :
Attorney Docket No. SPUNFAB-2 :

This is a decision on the petition under 37 CFR 1.137(a), filed August 8, 2005, to revive the above-identified application.

The petition is **DISMISSED**.

Facts:

A petition to revive the application under 37 CFR 1.137(b) was filed on March 19, 2004.

The petition was signed by attorney Sakyo and contained an address different than the address of record.

Address of record	Address on petition
Herbert Keuchel	Andrew F. Sayko, Jr.
175 Muffin Lane	PO Box 6339
Cuyahoga Falls, OH 44223	Shalotte, NC 28470

A decision granting the petition was mailed on April 19, 2004. A copy of the decision was sent to the address of record and the address listed on the petition. The decision noted that Office records failed to indicate Sayko was an attorney of record and stated,

> While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address of ... record until such time as appropriate instructions are received to the contrary.

Neither a power of attorney nor change of address was filed. Therefore, an Office action mailed on November 2, 2004, was mailed to the address of record in Cuyahoga, OH. The non-final Office action set a shortened statutory period for reply of (1) month or thirty (30) days whichever is later).

Attorney Sayko did not receive the Office action. Therefore, petitioner did not submit a reply to the Office action.

The application became abandoned as of midnight on December 2, 2004.

A Notice of Abandonment was mailed on June 30, 2005.

During a phone call from the examiner, petitioner learned the application was abandoned. The examiner sent attorney Sayko a copy of the November 2, 2004 Office action.

Analysis:

The Office action was not received due to petitioner's failure to file a request to change the correspondence address.

MPEP 711.03(c) states,

> [W]here 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.

Petitioner has failed to provide any evidence due care was taken to ensure a request to change the correspondence address was promptly and timely filed. Therefore, 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).

Petitioner may wish to consider filing a petition to revive based on unintentional abandonment under 37 CFR 1.137(b).

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(a)."

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

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

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

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Andrew F. Sayko Jr.
1014 Crooked Oaks Lane
Seabrook Island, SC 29455-6502

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APR 12 2006
OFFICE OF PETITIONS

In re Application of Keuchel et al. :
Application No. 10/350,707 : Decision on Petition
Filing Date: January 24, 2003 :
Attorney Docket No. SPUNFAB-2 :

This is a "corrected" decision in response to the petition under 37 CFR 1.137(a), filed December 30, 2005, to revive the above-identified application.

The petition is **DISMISSED**.

Facts:

A petition to revive the application under 37 CFR 1.137(b) was filed on March 19, 2004.

The petition was signed by attorney Sakyo and contained an address different than the address of record.

Address of record	Address on petition
Herbert Keuchel	Andrew F. Sayko, Jr.
175 Muffin Lane	PO Box 6339
Cuyahoga Falls, OH 44223	Shalotte, NC 28470

A decision granting the petition was mailed on April 19, 2004. A copy of the decision was sent to the address of record and the address listed on the petition. The decision noted that Office records failed to indicate Sayko was an attorney of record and stated,

> While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address of ... record until such time as appropriate instructions are received to the contrary.

Neither a power of attorney nor change of address was filed. Therefore, an Office action mailed on November 2, 2004, was mailed to the address of record in Cuyahoga, OH. The non-final Office action set a shortened statutory period for reply of (1) month or thirty (30) days whichever is later).

Attorney Sayko did not receive the Office action. Therefore, petitioner did not submit a reply to the Office action.

The application became abandoned as of midnight on December 2, 2004.

A Notice of Abandonment was mailed on June 30, 2005.

During a phone call from the examiner, petitioner learned the application was abandoned. The examiner sent attorney Sayko a copy of the November 2, 2004 Office action.

A petition under 37 CFR 1.137(a) was filed on August 8, 2005. A decision dismissing the petition was mailed November 4, 2005.

The instant petition was filed December 30, 2005. Due to Office error, a copy of the prior decision was mailed in response to the new petition.

Analysis:

The request for reconsideration fails to provide any new information. Instead, the request simply asserts, "The fact that neither a Power of Attorney nor a change of address had been filed at that time had nothing to do with the fact that applicants never received a copy of the Office action."

The Office disagrees with petitioner's assertion. Petitioner has failed to provide any evidence to indicate the Office action would not have been received if petitioner has changed the address of record. The failure to file a request to change the address appears to be the direct cause of petitioner's failure to receive the Office action.

MPEP 711.03(c) states,

> [W]here 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.

As stated in the prior decision, "Petitioner has failed to provide any evidence due care was taken to ensure a request to change the correspondence address was promptly and timely filed."

Therefore, 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).

Petitioner may wish to consider filing a petition to revive based on unintentional abandonment under 37 CFR 1.137(b).

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(a)."

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

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

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

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
P.O. Box 1450
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Andrew F. Sayko Jr.
1014 Crooked Oaks Lane
Seabrook Island, SC 29455-6502

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AUG 0 7 2006

OFFICE OF PETITIONS

In re Application of Keuchel et al. :
Application No. 10/350,707 : Decision on Petition
Filing Date: January 24, 2003 :
Attorney Docket No. SPUNFAB-2 :

This is a decision in response to the petition under 37 CFR 1.137(a), filed June 1, 2006, to revive the above-identified application.

The petition is **granted**.

A non-final Office action was mailed November 2, 2004.

The non-final Office action set a shortened statutory period for reply of (1) month or thirty (30) days whichever is later).

A reply was not filed. Therefore, the application was deemed abandoned as of midnight on December 2, 2004.

A Notice of Abandonment was mailed on June 30, 2005.

Discussion:

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.

Technology Center Art Unit 1771 will be informed of the instant decision and the examiner will consider the new claims filed August 8, 2005, in due course.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ANDREW F. SAYKO JR.
1014 CROOKED OAKS LANE
SEABROOK ISLAND SC 29455-6502

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SEP 10 2008

In re Application of
Keuchel, et al.
Application No. 10/350,707
Filed: January 24, 2003
Attorney Docket No. SPUNFAB-2

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 1, 2008, to revive the above-identified application.

The petition is **DISMISSED WITHOUT PREJUDICE.**

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 consists of one page of what purports to be a two page petition. The document received is not signed in accordance with 37 CFR 1.33(b) and, thus, has not been reviewed on the merits.

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
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

ANDREW F. SAYKO JR.
1014 CROOKED OAKS LANE
SEABROOK ISLAND SC 29455-6502

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DEC 16 2008

In re Application of :
Keuchel, et al. :
Application No. 10/350,707 : DECISION ON PETITION
Filed: January 24, 2003 :
Attorney Docket No. SPUNFAB-2 :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed September 29, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned January 24, 2008 for failure to timely submit a proper reply to the non-final Office action mailed October 23, 2008. The non-final Office action set a three month shortened statutory period of time for reply. An untimely reply (including petition for two month extension of time) was submitted April 29, 2008. Notice of Abandonment was mailed May 23, 2008. A petition to revive was filed July 1, 2008 and dismissed September 10, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) a reply to the non-final Office action, (2) the required petition fee, and (3) a proper statement of unintentional delay.

As the extension of time fee submitted April 29, 2008 was subsequent to the maximum period of time allowed for reply to the non-final Office action, applicant is entitled to a refund of this fee. Applicant may request a refund of the $230.00 extension of time fee by writing to the Finance Office, Refund Section. A copy of this decision should accompany any request for refund.

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

This application is being referred to Technology Center AU 1794 for further action.

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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Jeffrey R. Anderson
RICHMOND, HITCHCOCK, FISH & DOLLAR
P.O. BOX 2443
Bartlesville, OK 74005

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JUN 16 2006
OFFICE OF PETITIONS

In re Application of	:	DECISION ON PETITION
Bruce B. Randolph	:	
Application No. 10/350,716	:	
Filed: January 24, 2003	:	
Atty Docket No.:	:	
33983US/30272-P002US	:	

This is a decision on the Petition to Revive the Application based upon unintentional abandonment, filed March 6, 2006.

The petition is **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance and Issue Fee Due ("Notice"), mailed October 24, 2005. The Notice set a non-extendable statutory period for reply of three (3) months. Accordingly, the application became abandoned on January 25, 2006. The mailing of this Decision precedes the mailing of a Notice of Abandonment.

With the instant petition Applicant has submitted the issue fee.

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

The address on the petition is different from the address of record. If Petitioner desires to receive further correspondence with respect to this application, a change of correspondence address must be filed. A courtesy copy of this Decision is being forwarded to Petitioner at the address appearing on the petition; however, all future correspondence will be sent to address of record until instructions to the contrary are received.

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

Derek L. Woods
Attorney
Office of Petitions

Cc: ConocoPhillips Company
PO Box 2443
Bartlesville, OK 74005

UNITED STATES PATENT AND TRADEMARK OFFICE

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KATHY MANKE
AVAGO TECHNOLOGIES LIMITED
4380 ZIEGLER ROAD
FORT COLLINS, CO 80525

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JUL 26 2007

OFFICE OF PETITIONS

In re Application of :
KAKARALA et al :
Application No.: 10/350,722 : DECISION ON PETITION
Filing Date: January 23, 2003 : UNDER 37 CFR 1.137(B)
Attorney Docket No.: 10030078-1 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 9, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed November 2, 2006, which set a statutory period for reply of three (3) months. Accordingly, by operation of law, the above-identified application became abandoned on February 3, 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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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UNGARETTI & HARRIS LLP
INTELLECTUAL PROPERTY GROUP - PATENTS
70 WEST MADISON STREET
SUITE 3500
CHICAGO, IL 60602-4224

Mail Date: 06/16/2010

Applicant	: Edward L. Stahl	: DECISION ON REQUEST FOR
Patent Number	: 7637373	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/350,735	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/24/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

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

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Paper No. 6

INTERNATIONAL TRUCK INTELLECTUAL PROPERTY COMPANY
4201 WINFIELD ROAD
P.O. BOX 1488
WARRENVILLE IL 60555

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OCT 23 2003

OFFICE OF PETITIONS

In re Application of	:	
BUCHANAN et al.	:	DECISION ON
Application No. 10/350,760	:	PETITION
Filed: January 24, 2003	:	
Attorney Docket No. D5188-DIV	:	

This is a decision on the petition filed April 21, 2003, requesting that the above-identified application be accorded a filing date of January 24, 2003, with Figures 7, 7A-7D as part of the original disclosure.

On January 24, 2003, applicants filed the above-identified application. On March 6, 2003, the Office mailed a "Notice of Omitted Item(s) in a Nonprovisional Application," stating that the application was accorded a filing date of January 24, 2003; however, it appeared that Figures 7, 7A-7D described in the specification were omitted. On April 21, 2003, applicants submitted the present petition and Figures 7, 7A-7D. On June 17, 2003, the Office mailed a "Withdrawal of Previously Sent Notice," indicating that the Notice mailed on March 6, 2003 was sent in error and was withdrawn. The Office attached a "Notice to File Missing Parts of Nonprovisional Application," stating that the application was accorded a new filing date of April 21, 2003, the date the omitted drawings were deposited with the Office. Additionally, the Notice required applicants to submit an oath or declaration and a surcharge for its late filing.

In the present petition, applicants stated that all of drawings were included in parent application No. 10/141,467, filed on May 8, 2002. Applicants admitted that applicants inadvertently omitted Figures 7, 7A-7D on filing the present application. Applicants enclosed a copy of the omitted drawings and indicated that drawings presented no new matter. It does not appear that applicants were requesting that the Office accord the present application the later filing date of April 21, 2003, with Figures 7, 7A-7D.

Upon review of the record, the 1 sheet of drawings, consisting of Figures 7, 7A-7D has not been located in the official file. It is noted that the transmittal specifically incorporated by reference the disclosure of Application No. 10/141,467, filed May 8, 2002. 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. 10/141,467, the drawings of Figures 7, 7A-7D are not new matter if they were a part of the disclosure of Application No. 10/141,467. **If applicants desire that Figures 7, 7A-7D be added to the application, an amendment should be filed prior to the first action on the merits, which will be considered by the primary examiner.**

Accordingly, the Notice to File Missing Parts of Nonprovisional Application mailed on June 17, 2003, was sent in error and is hereby withdrawn. However, the requirement for the omitted figures in the Notice of Omitted Item(s) in a Nonprovisional Application was proper and will not be withdrawn.

The petition is granted to the extent that the Office will correct the filing date of the present application to January 24, 2003, without entering Figures 7, 7A-7D at this time. Again, applicants may wish to submit an amendment to the primary examiner to enter the figures. No petition fee is necessary. The $110.00 extension of time fee and the $130.00 surcharge will be refunded to Deposit Account No. 14-0603 because the Notice to File Missing Parts was sent in error.

The application is being returned to the Office of Initial Patent Examination for correction of the filing date to January 24, 2003, using the application papers filed on that date. Figures 7, 7A-7D will not be entered at this time.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 4

Attn: William E. Hilton
Samuels, Gauthier & Stevens, LLP
Suite 3300
225 Franklin Street
Boston, MA 02110

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MAY 0 5 2003

OFFICE OF PETITIONS

In re Application of :
David C. Brown :
Application No. 10/350,767 : DECISION GRANTING PETITION
Filed: January 24, 2003 :
Attorney Docket No. GSI.6890 :

This is a decision on the petition filed April 1, 2003, requesting that the above-identified application retain the presently accorded a filing date of January 24, 2003, with figure 6 of the drawings as part of the original disclosure.

On January 24, 2003, the above-identified application was filed. On March 10, 2003, the Office of Initial Patent Examination mailed a "Notice of Omitted Items of a Nonprovisional Application" (the "Notice"), stating that the application had been accorded a filing date of January 24, 2003, however, figure 6 of the drawings appeared to have been omitted. The Notice allowed a non-extendable two month period for reply beginning from the mailing date of the Notice.

In response, on April 1, 2003, applicants filed the present petition and a duplicate copy of the application papers originally filed. Among the duplicate application papers filed, were 12 sheets of drawings, one of which contained Figure 6. Petitioner also filed a copy of an Office date-stamped postcard showing that, among other items, 12 sheets of drawings were received on January 24, 2003.

Upon review of the record, figure 6 of the drawings has not been located among the application papers. However, the evidence is convincing that the application papers deposited January 24, 2003, included figure 6 of the drawings, which was subsequently misplaced by the Office. Therefore, the application, including figure 6 of the drawings, was complete on filing and entitled to the presently accorded filing date of January 24, 2003.

Accordingly, the petition is granted.

Applicant is advised that the Notice was sent in error and is vacated. Therefore, no petition fee is necessary and the fee of $130.00 will be refunded in due course.

The application file is being returned to the Office of Initial Patent Examination for further processing with the presently accorded filing date of January 24, 2003, using the 12 pages of drawings filed January 24, 2003.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 10/350767

Paper No.: _____

DATE : 1-25-06

TO SPE OF : ART UNIT 2834

SUBJECT : Request for Certificate of Correction on Patent No.: 6982504

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

Please complete this form and return with file, within 7 days to:
Certificates of Correction Branch - ~~PK 3-922~~ South 7
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.

Check claims (Please)

Thank You For Your Assistance

E Yoy
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:

There was no Patent Office mistake. In the allowed claims, 11 was independent, 12 depended on 11, 13 depended on 12, 14 and 15 were cancelled, 16 depended on 11 and 17 depended on 11. When the claims were renumbered, 10 was independent, 11 depended on 10, 12 depended on 11, 13 depended on 10 and 14 depended on 10. See also the original claims of 1/24/2003 with the same dependencies.

SPE

2834
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Date Mailed : March 29,2006

Patent No. : 6,982,504
Patent Issued : October 3,2006
Docket No. : GSI.6890

Re: Request for Certificate of Correction

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

The alleged error(s) CLAIMS, There was no Patent Office mistake.In the allowed claims,11 was independent, 12 depended on 11,13 depended on 12,14 and 15 were cancelled,16 depended 11 and 17 depended on 11.When the claims were renumbered,10 was independent,11 depended on 10,12 depended on 11,13 depended on 10 and 14 depended on 10.See also the original claims of 1/24/2003 with the same dependencies.The patent is printed in accordance with the record . In view of the foregoing, your request, in this matter(s), is hereby denied.

Further consideration/reconsideration will be given upon receipt of a Request for Reconsideration under, under the provision of U.SC.254 or 255 (C.F.R. 1.322 or 1.323), accompanied by the appropriate response or fee of $100, which should be directed to Decisions & Certificates of Correction Branch.

Ennis Young
Legal Instrument Examiner
(703) 308-9390 ext.117

For Cecelia B. Newman, Supervisor
Decisions & Certificates of Correction Branch
(703) 308-9390 ext. 102 or (703) 303-8309 (Receptionist)

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GAUTHIER & CONNORS, LLP
225 FRANKLIN STREET
SUITE 2300
BOSTON, MA 02110

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MAR 2 8 2007

OFFICE OF PETITIONS

In re Application of

Fonstad, et al.

Application No. 10/350,769

Filed: January 24, 2003

Attorney Docket No. 9623-1

DECISION ON PETITION

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181(a), filed January 29, 2007.

The petition is **granted**.

This application was held abandoned September 11, 2006, after no reply was received to the Notice of Allowance and Issue Fee Due mailed September 11, 2006. The notice set forth a statutory period of reply of three months from its mailing date. No response was received within the allowable period and the application became abandoned on December 12, 2006. A Notice of Abandonment was mailed January 8, 2007. The instant petition was filed on January 29, 2007. Petitioner maintains that the Notice of Allowance and Issue Fee Due was never received and provides a copy of the relevant docketing calendar as proof of the same.

Section 711.03(c)(II) of the *Manual of Patent Examining Procedure* ("MPEP") provides that in order to establish non-receipt of an Office action so as prove that the imposition of a holding of abandonment is improper, petitioner must: 1) provide a statement to the Office indicating that the Office action was not received by petitioner; 2) include in the statement an attestation to the fact that a review of the file jacket and docket records maintained by petitioner indicates that the Office action was not received; and 3) provide a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed.

Petitioner has met the burden of proof as established by Section 711.03(c)(II) of the MPEP. The holding of abandonment is, therefore, withdrawn.

The application file is being forwarded to Technology 2800, GAU 2815 for further processing that may include remailing the Notice of Allowance and Issue Fee Due and resetting of the period for reply.

Questions concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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WORKMAN, NYDEGGER & SEELEY
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, UT 84111

In re Application of :
MANNING, Howard J. :
Application No.: 10/350,776 :
Filing Date: 24 January 2003 : **DECISION**
Attorney Docket No.: 15584.9 :
For: HIGHLY PARALLEL FABRICATION OF :
MICROARRAYS BY INK JET :
PRINTHEAD :

This decision is in response to applicant's "Responsive Action" and other papers submitted 18 April 2003 which have been treated as a petition under 37 CFR 1.181. No fee is required

BACKGROUND

On 24 January 2003, applicants filed the present U.S. national application papers including a transmittal letter requesting a filing date pursuant to 37 C.F.R. 1.53(b).

On 11 March 2003, a "Filing Receipt" was mailed for the above-captioned application indicating no priority claim.

On 21 March 2003, applicant filed a "Request for Corrected Filing Receipt." to indicate a priority claim for PCT/GB01/03471 with an international filing date of 02 August 2001.

On 03 April 2003, a "Response to Request for Corrected Filing Receipt" was mailed indicating that the Office was unable to correct the filing receipt because the priority claim is over a year prior to the filing date of this application.

On 18 April 2003, applicant submitted the instant petition.

DISCUSSION

In the papers filed 18 April 2003, applicant claims that they "intended to submit this patent application to the United States Designated/Elected Office concerning a filing under 35 U.S.C. 371." Applicant included a copy of another transmittal letter (Form PTO-1390) for the above-captioned application and a $145.00 extra filing fee.

Any intended filing of an international application as a national stage application must clearly and unambiguously be identified as such and must satisfy all the conditions set forth in 35 U.S.C. 371(c). The official PTO Notice published in the Official Gazette at 1077 OG 13 (April 14, 1987) entitled "Minimum Requirements for Acceptance of Applications Under 35 U.S.C. 371, (the National Stage of PCT)" states, in part, that: "[i]f there are any conflicting instructions as to which section of the statute (371 or 111) is intended the application will be accepted under 35 U.S.C. 111."

A review of the above-captioned application reveals that the above-captioned application was properly treated by the Office as a filing under 35 U.S.C. 111(a). The transmittal letter filed 24 January 2003 states that the papers were "for filing under 37 CFR 1.53(b)." Application papers submitted under 37 CFR 1.53(b) are filed under 35 U.S.C. 111(a).

Accordingly, the papers deposited on 24 January 2003 constituted a filing under 35 U.S.C. 111(a).

DECISION

Applicant's petition under 37 CFR 1.181 is **DISMISSED** without prejudice

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision.

Applicant may also consider filing a petition to convert the above-captioned application to a filing under 35 U.S.C. 371. A petition fee of $130.00 is required. U.S. Statutes and Regulations do not have any specific provision for requests to convert and as such, the Office does not grant such petitions for conversion as a mere matter of course. The Office will only grant such petitions upon a showing by applicant of sufficient cause (*e.g.*, the loss of patent rights) **where no other remedy is available**.

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

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (703) 308-6457

09 NOV 2005

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WORKMAN, NYDEGGER & SEELEY
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, UT 84111

In re Application of :
MANNING, Howard J. :
Application No.: 10/350,776 :
Filing Date: 24 January 2003 : **DECISION**
Attorney Docket No.: 15584.9 :
For: HIGHLY PARALLEL FABRICATION OF :
MICROARRAYS BY INK JET :
PRINTHEAD :

This decision is in response to the papers filed via facsimile on 02 November 2005.

On 19 September 2005, applicant submitted papers including evidence showing that a petition to convert the above-captioned application to a national stage filing of international application PCT/GB01/03471 was filed 12 August 2004. USPTO financial records show that a fee of $130.00 for the petition was charged.

Applicant then submitted a request to withdraw the petition to convert along with a request for a refund of fees previously charged to Deposit Account No. 23-3178 after discussing petitioner's options with the undersigned on 02 November 2005.

Applicant's request is hereby **GRANTED**.

The petition to convert will not be considered. The petition fee has been refunded.[1] This application is being forwarded to Tech Center 2800 for continued processing.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

[1] Petitioner should note that the $130.00 petition fee charged on 12 August 2004 has been credited back to the credit card it was charged from, not the Deposit Account as requested.

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Paper No. 7

TESTA, HURWITZ & THIBEAULT, LLP
HIGH STREET TOWER
125 HIGH STREET
BOSTON MA 02110

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JUL 07 2003

OFFICE OF PETITIONS

In re Application of
Bar Tal, Paldi, Gandelsman & Gurovich
Application No. 10/350,792
Filed: January 24, 2003
Attorney Docket No. BKE-008
For: ESTIMATING POSITION AND ORIENTATION IN ELECTROMAGNETIC SYSTEMS

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

This is in response to the petition under 37 CFR 1.47(a), filed June 12, 2003.

The petition is granted.

Petitioners have shown that the non-signing inventor, Mr. Bar Tal, refused to join in the filing of the above-identified application after having constructively refused to examine with the application papers. Specifically, the statements by Attorney Rose and the declaration/statement of facts of Jonathan Zohn, Intellectual Property Manager for Elbit Systems Ltd., establish that the inventor was mailed the application papers, including the specification, claims and drawings, but he twice failed to pick up the package and that Mr. Bar Tal expressly refused to sign the declaration during a conversation with Mr. Zohn. Petitioners have submitted a declaration in compliance with 37 CFR 1.63 and 1.64.

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

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

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

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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MEIR BAR TAL
27 HASHITA STREET
ZICHRON YAACOV
ISRAEL 30900

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JUL 07 2003

OFFICE OF PETITIONS

In re Application of
Bar Tal, Paldi, Gandelsman & Gurovich
Application No. 10/350,792
Filed: January 24, 2003
Attorney Docket No. BKE-008
For: ESTIMATING POSITION AND ORIENTATION IN ELECTROMAGNETIC SYSTEMS

LETTER

Dear Mr. Bar Tal:

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: TESTA, HURWITZ & THIBEAULT, LLP
HIGH STREET TOWER
125 HIGH STREET
BOSTON MA 02110

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Paper No. 12

STOEL RIVES LLP
900 SW FIFTH AVENUE
SUITE 2600
PORTLAND OR 97204

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AUG 21 2003

OFFICE OF PETITIONS

In re Application of
Davis, Spearman & Combs
Application No.: 10/350,796
Filed: January 24, 2003
Attorney Docket No.: 25343/37
For: BUSINESS PLATFORM WITH NETWORKED, ASSOCIATION-BASED BUSINESS ENTITY ACCESS MANAGEMENT AND ACTIVE CONTENT WEBSITE CONFIGURATION

DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the reconsideration petition under 37 CFR 1.47(a), filed August 11, 2003 (certificate of mailing date August 8, 2003).

The petition is granted.

Petitioners have shown that the non-signing inventor, Robert C. Combs, has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the declaration of Scott Mathews attests to the fact that the inventor was mailed the application papers, including the specification, claims and drawings. Exhibit B to Mr. Mathews' declaration is an e-mail refusal to join in the filing of the application sent by Mr. Combs. Petitioners have submitted a declaration in compliance with 37 CFR 1.63 and 1.64.

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

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

Regarding finances, petitioners submitted a second $130 petition fee, a $355 extension of time fees, and an authorization to charge fees to deposit account no. 19-4455 with the instant reconsideration petition. Subsequently, the Office erroneously charged $465 in extension of time fees to petitioners' deposit account.

Petitioners are informed that no extension of time is required because petitioners responded to the July 25, 2003 dismissal within 2 months of the mail date of that decision. In addition, petitioners are informed that only one $130 petition fee is required because the instant petition is a reconsideration of the May 30, 2003 (certificate of mailing date May 28, 2003) petition.

Pursuant to petitioners' authorization, deposit account 19-4455 will be credited (1) the second $130 petition fee submitted with the instant petition, (2) the $355 extension of time fee, and (3) the erroneously charged $465 extension of time fee.

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

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

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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Paper No. 9

STOEL RIVES LLP
One Utah Center
Suite 1100
201 South Main Street
Salt Lake City UT 84111

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JUL 2 5 2003

OFFICE OF PETITIONS

In re Application of :
Davis, Spearman & Combs :
Application No.: 10/350,796 :
Filed: January 24, 2003 :
Attorney Docket No.: 25343/37 :
For: BUSINESS PLATFORM WITH NETWORKED, ASSOCIATION-BASED BUSINESS ENTITY ACCESS MANAGEMENT AND ACTIVE CONTENT WEBSITE CONFIGURATION

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed May 30, 2003 (certificate of mailing date May 28, 2003).

The petition is **DISMISSED**.

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

The above-identified application was filed on January 24, 2003 without an executed declaration. On March 12, 2003, the Office mailed a Notice to File Missing Parts of Nonprovisional Application, requiring an executed oath/declaration, filing fees, and a surcharge for their late filing. In response, on May 30, 2003 (certificate of mailing date May 28, 2003), petitioner filed a request for a one month extension of time and required fee, a declaration executed by 2 of 3 joint inventors, filing fees, and a Rule 47 petition with the required $130 fee. The petition is accompanied by a declaration by Scott Mathews, an officer of the partial assignee of record, that states that Robert C. Combs, the non-signing inventor, was mailed a declaration and an assignment form for his signature, but Mr. Combs refused to sign the documents.

A grantable petition under 37 CFR 1.47(a) requires

(1) a petition including proof of the pertinent facts establishing that the joint inventor(s) refuses to join, or cannot be found or reached after diligent effort,
(2) a proper oath or Declaration executed by the available joint inventor(s),
(3) the fee of $130 as specified in 37 CFR § 1.17(h), and
(4) the last known address of the omitted inventor(s).

This petition lacks item (1) above.

As to item (1), Applicants have failed to establish that the inventor has refused to sign the declaration. The proof of the pertinent events should be made by a statement of someone with first hand knowledge of the events. The Office requires that the non-signing inventor be provided with a complete copy of the application as filed. This includes the specification with claims, drawings, if any, and a declaration. See MPEP 409.03(d). Mr. Mathews' declaration and the exhibits to the declaration do not establish that Mr. Combs was mailed a copy of the complete application.

Mr. Combs must have the complete application in his possession in order to make an informed decision as to whether he joins in its filing. Mr. Combs cannot make the necessary statements found in the declaration-- i.e. "I have reviewed and understand..." -- without having examined the patent application. When petitioners can show that Mr. Combs was mailed and received the complete application and that he either refused to sign the declaration or would not respond to the request that he sign the declaration within a reasonable amount of time, petitioners will have satisfied this requirement.

It is assumed that Mr. Comb's last known address is that given in the declaration. Petitioners are requested to confirm that assumption in any reconsideration petition.

Regarding the power of attorney and change of correspondence address filed with the instant petition, it is not proper to recognize these requests until Rule 47 status is established. As of now, there is one joint inventor and a partial assignee of 2/3 interest. A courtesy copy of this decision will be mailed to the address given on the petition.

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

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

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

By hand: Office of Petitions
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA 22202

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

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

cc: STOEL RIVES LLP
900 SW FIFTH AVENUE, SUITE 2600
PORTLAND OR 97204-1268

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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JOAN RICHMOND
1822 STEELE HILL RD
RANDOLPH VT 05060-9719

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DEC 04 2003

OFFICE OF PETITIONS

In re Application of
Gerard J. Nau and Joan F.L. Richmond
Application No. 10/350,797
Filed: January 22, 2003
Title: DIAGNOSTIC AND THERAPEUTIC APPLICATIONS FOR BIOMARKERS OF INFECTION

LETTER

Dear Ms. Richmond:

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

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

Lisa M. Treannie
Hamilton, Brook, Smith & Reynolds PC
530 Virginia Road
PO Box 9133
Concord, MA 01742-9133

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 7

HAMILTON BROOK SMITH & REYNOLDS PC
530 VIRGINIA ROAD
PO BOX 9133
CONCORD MA 01742-9133

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DEC 04 2003

OFFICE OF PETITIONS

In re Application of
Gerard J. Nau and Joan F.L. Richmond
Application No. 10/350,797
Filed: January 22, 2003
Attorney Docket No. 2825.2044-000

DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed October 10, 2003.

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

The above-identified application was filed on January 22, 2003, without a fully executed oath or declaration and the statutory basic filing fee. Accordingly, on April 7, 2003, a Notice to File Missing Parts of Nonprovisional Application was mailed, requiring these missing items and fees, together with a surcharge for their late filing. This Notice set a two month extendable period for reply.

In reply, applicant filed the instant petition under 37 CFR 1.47(a), together with the statutory basic filing fee and surcharge. The petition was made timely by obtaining a four month extension of time and including a Certificate of Mailing dated October 7, 2003. Accompanying the petition was a declaration executed by joint inventor Gerard J. Nau, but with the signature block for joint inventor Joan F.L. Richmond left blank.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor(s) 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 37 CFR 1.63; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor(s).

On petition, Rule 47 applicant has included a copy of a cover letter to Richmond, dated April 16, 2003, transmitting the application papers. According to Rule 47 applicant, no executed declaration from Richmond has been received.

On petition, Rule 47 applicant has submitted a declaration in compliance with 37 CFR 1.63 and satisfied the requirements of 37 CFR 1.47(a). Accordingly, the above-identified application is hereby accorded Rule 1.47(a) status.

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

The application file is being forwarded to Technology Center 1600, Group Art Unit 1645, for docketing.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
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FULBRIGHT & JAWORSKI L.L.P.
600 CONGRESS AVE., SUITE 2400
AUSTIN TX 78701

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JUL 0 3 2007

OFFICE OF PETITIONS

In re Application of :
VAIL, Neal K. :
Application No. 10/350,805 : DECISION ON PETITION
Filed: January 24, 2003 : TO WITHDRAW
Attorney Docket No. **SWRI:007US** : 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 23, 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 "at assignee's instruction" does not meet any of the conditions set forth in 37 CFR 10.40.

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

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **STEVEN J. GROSSMAN**
GROSSMAN TUCKER PEREAULT & PFLEGER PLLC
MANCHESTER, NH 03101

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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GROSSMAN, TUCKER, PERREAULT & PFLEGER, PLLC
55 SOUTH COMMERICAL STREET
MANCHESTER NH 03101

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OFFICE OF PETITIONS

In re Application of :
NEAL K.VAIL :
Application No. 10/350,805 : ON PETITION
Filed: 01/24/2003 :
Attorney Docket No. SWRI-2899 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 23, 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 December 11, 2006. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on March 12, 2007. A Notice of Abandonment was mailed on July 25, 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), the RCE fee and the submission required by 37 CFR 1.114; (2) the petition fee; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 1615 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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OFFICE OF PETITIONS

In re Application of :
GERTNER, Michael E. :
Application No. 10/350,809 : DECISION ON PETITION
Filed: January 24, 2003 : TO WITHDRAW
Attorney Docket No. **UCSF-P002** : 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 17, 2007.

The request is **NOT APPROVED**.

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

The request to withdraw less than all attorneys appointed by customer number 22798 cannot be approved. The addition and/or deletion of a practitioner from the list of practitioners associated with a Customer Number should be made by submitting a "Request for Customer Number Data Change" (PTO/SB/124) which will result in the addition or deletion of such practitioner from the list of persons authorized to represent any applicant or assignee of the entire interest who appointed all of the practitioners associated with such Customer Number. See MPEP 403 Section I. Customer Number Practice.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

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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 :
Gaudiana et al. :
Application No. 10/350812 : ON PETITION
Filing Date: 01/24/2003 :
Attorney Docket Number: :
15626-062001 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 8, 2007, to revive the above-identified application. The delay in treating this petition is regretted.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of December 5, 2006. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is March 6, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee, and the submission required by 37 CFR 1.114; (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) 272-3232.

This application is being referred to Technology Center AU 1753 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Derek L. Woods
Attorney
Office of Petitions

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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.
10/350,818	01/24/2003	Kendall William Harvey	1400.1375130	4561

25697 7590 08/11/2008
ROSS D. SNYDER & ASSOCIATES, INC.
PO BOX 164075
AUSTIN, TX 78716-4075

EXAMINER	
BATURAY, ALICIA	
ART UNIT	PAPER NUMBER
2146	
MAIL DATE	DELIVERY MODE
08/11/2008	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.

See attached.

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ROSS D. SNYDER & ASSOCIATES, INC.
PO BOX 164075
AUSTIN TX 78716-4075

In re Application of:
Kendall HARVEY et al.
Application No. 10/350,818
Filed: January 27, 2003
For: METHOD AND APPARATUS FOR SYNCHRONIZING REDUNDANT COMMUNICATION TASKS

DECISION SUA SPONTE WITHDRAWING HOLDING OF ABANDONMENT

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

This application is held abandoned for failure to timely file a proper response following a Pre-Appeal Brief decision mailed 28 Nov 2008 to proceed to the Board of Appeals and Interferences within the expiration of the period for reply. A Notice of Abandonment was mailed on 23 May 2008.

A review of the file record indicates that a Request for Continued Examination dated May 29, 2008 was timely filed based upon the receipt date of the Notice of Appeal dated 29 Oct 2007 along with the five month extension of time under 37 CFR 1.136. Thus, the Notice of Abandonment mailed 23 May 2008 was premature.

Although no petition or request to withdraw the holding of abandonment in this application has been filed, the holding of Abandonment is hereby withdrawn.

The application is being forwarded to the appropriate personnel for processing the Request for Continued Examination filed 29 May 2008.

/Kim Huynh/

Kim Huynh, SPRE/QAS
Technology Center 2100
Computer Architecture, Software, and Information Security
571-272-4147

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JAN 25 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

ST. ONGE STEWARD JOHNSTON & REENS, LLC
986 BEDFORD STREET
STAMFORD CT 06905-5619

In re Application of :
Timothy EDWARDS, et al. :
Application No. 10/350,835 :
Filed: January 24, 2003 :
For: **FACIAL IMAGE PROCESSING SYSTEM** :

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition filed December 3, 2004, under 37 CFR §1.102(d) to make the application special and treated as pursuant to MPEP §708.02, section II (Infringement),.

A grantable petition under 37 CFR §1.102(d) and MPEP §708.02, section II (Infringement), must be accompanied by the required fee and a statement alleging:

(1) that there is an infringing device or product actually on the market or method in use;
(2) 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
(3) that he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art. Further, Applicant must provide a copy of each of the references deemed most closely related to the subject matter encompassed by the claims if the references are not already of record.

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

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant.

The application is being forwarded to the examiner for expedited prosecution.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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PERKINS COIE LLP
P.O. BOX 1208
SEATTLE, WA 98111-1208

Mail Date: 04/23/2010

Applicant	: Martin Remy	: DECISION ON REQUEST FOR
Patent Number	: 7587381	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/350,869	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/24/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

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

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CHARLES E. BAXLEY, ESQUIRE
Hart, Baxley, Daniels & Holton
Fifth Floor
59 John Street
New York, NY 10038

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MAR 12 2007

OFFICE OF PETITIONS

In re Application of :
Matthew J. Walsh :
Application No.: 10/350,872 : ON PETITION
Filed: January 23, 2003 :
Attorney Docket No: 12937 B :

This is a decision on the petition under 37 CFR §1.137(b), September 22, 2006, to revive the above-identified application.

The petition is **dismissed**.

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

This application became abandoned for failure to respond in a timely manner to the final Office action mailed February 2, 2006. The notice set a shortened statutory period for reply of three months from its mailing date. No response was received within the allowable period, and the application became abandoned on May 3, 2006. A Notice of Abandonment was mailed on October 16, 2006.

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

(1) the required reply, unless previously filed. In a non-provisional 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 require additional information where there is a question whether the delay was unintentional; and

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

The instant petition does not satisfy the requirements of item (1) above.

Examiner Erica Cadugan has determined that the amendment filed September 22, 2006, failed to place the application in condition for allowance. A proper response must be filed with any renewed petition. A proper response would be a Request for Continued Examination under 37 CFR 1.114 or an amendment that places the application in condition for allowance.

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

By mail: Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

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

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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BAKER BOTTS
PATENT DEPARTMENT
98 SAN JACINTO BLVD
SUITE 1500
AUSTIN, TX 78701-4039

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OCT 0 5 2005

OFFICE OF PETITIONS

In re Application of :
Laird W. Laurence et al :
Application No. 10/350,880 :
Filed: January 24, 2003 :
Attorney Docket No. 073332.0102 :

DECISION ON PETITION
TO MAKE SPECIAL
37 CFR 1.102(c)

This is a decision on the petition under 37 CFR §1.102(c), filed July 11,2005, to make the above-identified application special.

The petition requests that the above-identified applicationbe made special as set forth in M.P.E.P. § 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied any evidence showing that the applicant is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes copies of birth certificates and statements by Jack C. Laurence and James D. King attesting that they are over 65 years of age. Accordingly, the above-identified application has been accorded "special" status.

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

All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center AU 3737 for expedited prosecution.

Denise Pothier
Petitions Examiner
Office of Petitions

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Novartis Vaccines and Diagnostics, Inc.
Intellectual Property-R338
P.O. Box 8097
Emeryville, California 94662-8097

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OCT 31 2007

OFFICE OF PETITIONS

In re Application of :
Chu et al. :
Application No. 10/350,887 : DECISION ON PETITION
Filed: January 23, 2003 :
Attorney Docket No. 1581.006 :

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

The petition is **GRANTED**.

This above-identified application became abandoned for failure to timely file a reply to a Restriction Requirement mailed June 29, 2006. The Office Action set a one (1) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on July 30, 2006. A Notice of Abandonment was mailed on January 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 an amendment, (2) the petition fee of $1500.00, and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU1644 for appropriate action by the Examiner in the normal course of business on the reply received

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/350,887	01/23/2003	Keting Chu	1581.006

CONFIRMATION NO. 1072

Novartis Vaccines and Diagnostics, Inc
Intellectual Property-R338
P.O. Box 8097
Emeryville, CA 94662-8097

POA ACCEPTANCE LETTER

OC000000026538861

Date Mailed: 10/31/2007

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/29/2007.

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

/crgrant/

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

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OFFICE OF THE DIRECTOR
TC 3600

Kenneth T. Emanuelson
GARDERE WYNNE SEWELL LLP
1601 Elm Street
3000 Thanksgiving Tower
Dallas, TX 75201

In re application of
Donald E. Trott
Application No. 10/350,888
Filed: January 24, 2003
For: MOTORIZED CHARIOT

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

This is a decision on the petition submitted on July 01, 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 declaration signed by Mr. Trott indicating that he is at least 65 years of age.

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

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

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

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

SNM/pav: 7/28/04

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SEP 17 2003

UR
PAPER NO. 8

In re Application of :
Kethinni Chittibabu et al. :
Serial Number: 10/350,912 : PETITION UNDER
Filed: January 24, 2003 : M.P.E.P.708.02, V
For: GEL ELECTROLYTE FOR DYE SENSITIZED :
SOLAR CELLS :

This is in response to the petition filed, July 03, 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

Testa, Hurwitz & Thibeault, LLP
High Street Tower
125 High Street
Boston, MA 02110

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PET DEC

MAR 18 2004

VP
PAPER NO. ___

In re Application of
Chittibabu et al.
Serial Number: 10/350,913
Filed: January 24, 2003
For: LOW TEMPERATURE INTERCONNECTION
OF NANOPARTICLES

PETITION UNDER
MPEP 708.02 VI

This is in response to the petition filed July 3, 2003, requesting that the above-identified application be granted Special Status pursuant to 708.02 VI 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.**

Marian C. Knode

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

Testa, Hurwitz, & Thibeault, LLP
High Street Tower
125 High Street
Boston, MA 02110

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Paper No. 9

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

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MAR 17 2004

OFFICE OF PETITIONS

In re Application of
Dave et al.
Application No. 10/350,915
Filed: January 22, 2003
Attorney Docket No. LICHTE.003A

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed March 10, 2004, to revive the above-identified application.

The petition is **granted.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed April 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 June 8, 2003. A Notice of Abandonment was mailed on February 4, 2004.

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

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

Telephone inquiries 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

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OFFICE OF PETITIONS

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

In re Application of :

DAVE, Hitendu H. et al. :
Application No. 10/350,915 : DECISION ON PETITION
Filed: January 22, 2003 : TO WITHDRAW
Attorney Docket No. **LICHTE.003A** : 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 22, 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 Linda Liu on behalf of all attorneys of record who are associated with customer No. 20995. All attorneys/agents associated with the Customer Number 20995 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the second named inventor Jeffrey Jump at the address indicated below. There is an outstanding Office action mailed March 06, 2008 that requires a reply from the applicant.

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

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **JEFFREY JUMP**
CH. DE TREMBLEY 42
PRANGINS 1197
CH

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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Brinks Hofer Gilson & Lione
PO Box 10395
Chicago, Illinois 60610

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JUL 2 0 2006

OFFICE OF PETITIONS

In re Application of
Alcott
Application No. 10/350,918
Filed: January 24, 2003
Attorney Docket No.8285-493

:DECISION DISMISSING PTA
:RECONSIDERATION

This decision is in response to applicant's REQUEST FOR REVIEW OF PATENT TERM ADJUSTMENT on April 20, 2006 requesting that the Office review the amount of PTA because the determination of 269 days "may extend the term of this patent by too many days.

Applicant's letter regarding PTA is **DISMISSED.**

Applicant's assert that the number of PTA days determined by their analysis may extend the patent by too many days. Applicant did not provide any information as to the nature of the error in the USPTO determination.

Applicant's assertion is not persuasive. The determination of 269 days of PTA at the time of the mailing of the notice of allowance is accurate. A review of the application file reflects that the Office failed to initially act upon the application within fourteen months of the filing date of the application by period of TWO HUNDRED AND SIXTY-FIVE (265)days. See 37 CFR 1.702(a)(1).[1] An additional delay of forty-four days of Office delay pursuant to 37 CFR 1.702(a)(2)occurred on July 14, 2005. Applicant had thirty-eight (38) days of applicant delay for failing to meet the requirement of 37 CFR 1.704(b) by a period of (38)days on November 21, 2005.

If applicant believes that the Office has overlooked some factor in this response, then the Office invites applicant to reply with a comment as what the error involves.

After the mailing of this decision, the application will be forwarded to the Office of Patent Publications for a prompt issuance of the patent. Any delays occurring under 37 CFR 1.702(a)(4) or (b) will be reflected in the issue notification letter that will be mailed to the applicant approximately three weeks prior to the issue date.

The Office thanks applicants for their good faith and candor in

[1]The Office delay began on March 24, 2004 and ended on 12/14/2004, 269 day delay.

bringing alleged PTO errors to the attention of the Office. Under these circumstances, the Office will not assess a fee for the submission of this letter.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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PFIZER INC.
PATENT DEPARTMENT, MS8260-1611
EASTERN POINT ROAD
GROTON CT 06340

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JUL 17 2008

OFFICE OF PETITIONS

In re Application of	:	
Butt et al.	:	
Application No. 10/350,933	:	ON PETITION
Filed: January 24, 2003	:	
Attorney Docket No. PC22021A	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed April 25, 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 an Amendment and an Information Disclosure Statement (IDS), (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 1614 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Paper No.

QUALCOMM Incorporated
Attn : Patent Department
5775 Morehouse Drive
San Diego, CA 92121-1714

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JAN 18 2007

OFFICE OF PETITIONS

In re Application of :
Clarey et al. : DECISION ON
Application No. 10/350,959 : PETITION
Filed: January 24, 2003 :
Atty Docket No. DUMMETT-021XX :

This is a decision on the "PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 CFR §1.181," filed September 27, 2006.

The above-identified application became abandoned for failure to file a timely and proper reply to the Notice of Non-compliant Amendment mailed November 14, 2005. This Notice set a one-month period for response, with extensions of time obtainable under §1.136(a). No reply considered received and no extension of time obtained, the application became abandoned effective December 15, 2005. A courtesy Notice of Abandonment was mailed on July 27, 2006.

Applicants filed the instant petition on the basis that the Office action was never received by applicants, as it was mailed to previous counsel no longer handling this application. Petitioner asserted that applicants submitted a name and correspondence change with the USPTO on August 8, 2005. In support thereof, applicants submitted a copy of the paper filed August 8, 2005. Further, petitioner attests to a review of the file jacket and docket record having been reviewed and the Office communication not received.

The record shows that the Office action was mailed to the correspondence address of record properly in effect on the day of mailing.

The evidence submitted by applicants supports a conclusion that a name change was filed in the assignment records of this application. This was done by way of a RECORDATION FORM COVER SHEET faxed to the Office of Public Records. This document requests that in the assignment records of the Office a name change be entered and it includes the address of the correspondent. This document did not request a revocation of power of attorney and/or a change of correspondence address[1]. More importantly, even if such request were made therein, such documents filed for recording in the assignment records do not go in the application file and are not effective to make changes to the correspondence address for an application. To make such changes applicants must file a revocation of power of attorney and a change of correspondence address in the application or, if applicable, in the Customer Number associated with the application.

Thus, it is concluded that non-receipt of the Office action is properly attributed to the failure to timely file a change of correspondence address in the application. Under the circumstances, withdrawal of the holding of abandonment is not warranted.

Given the statements on petition, the decision is being mailed to the QUALCOMM address, the address of the registered patent practitioner, who filed the instant petition. **However, until such time as a proper change of correspondence address and, if necessary, revocation of power of attorney is filed, all future correspondence will be mailed to the correspondence address of record (that of Bourque & Associates, P.A.).**

The petition under § 1.181 is **DISMISSED**.

Any request for reconsideration must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are not permitted. See 1.181(f).

---

[1] It is noted that a review of the records of the other applications to which this RECORDATION FORM COVER SHEET was directed supports a conclusion that it was not directed to changing the attorneys or addresses in the listed applications (even if it could).

Alternatively, applicant may seek revival under the provisions of 37 CFR 1.137. Such a request should include a cover letter entitled "Petition under 37 C.F.R. §1.137(a)" or "Petition under 37 C.F.R. §1.137(b)," as appropriate.

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

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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QUALCOMM Incorporated
Attn : Patent Department
5775 Morehouse Drive
San Diego, CA 92121-1714

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OFFICE OF PETITIONS

In re Application of	:	
Clarey et al.	:	DECISION ON
Application No. 10/350,959	:	PETITION
Filed: January 24, 2003	:	and
Atty Docket No. DUMMETT-021XX	:	NOTICE OF NONACCEPTANCE
	:	OF REVOCATION OF ATTORNEY
	:	AND CHANGE OF ADDRESS

This is a decision on the "PETITION TO REVIVE UNDER 37 C.F.R. §1.137(b)," filed January 18, 2008.

The above-identified application became abandoned effective December 15, 2005 for failure to file a timely and proper reply to the Notice of Non-compliant Amendment mailed November 14, 2005. A courtesy Notice of Abandonment was mailed on July 27, 2006.

An initial petition to withdraw the holding of abandonment was filed on September 27, 2006 based on non-receipt of the Office action. By decision mailed January 18, 2007, the petition was dismissed as the Office action was properly mailed to the correspondence address of record in effect on the day of mailing, and applicants had not properly filed a revocation of power of attorney and change of correspondence address.

A year later, on January 18, 2008, applicants filed the instant petition to revive based on unintentional delay.

37 CFR 1.137(b) provides that:

If the delay in reply by applicant or patent owner was unintentional, a petition may be filed pursuant to this paragraph to revive an abandoned application, a reexamination prosecution terminated under §§ 1.550(d) or 1.957(b) or limited under § 1.957(c), or a lapsed patent. A grantable petition pursuant to this paragraph must be accompanied by:

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

The petition includes payment of the petition fee, the required reply in the form of an amendment and a statement of unintentional delay. No terminal disclaimer has been determined to be required. Requirement (3) is at issue.

U.S.C. § 41(a)(7) authorizes the Director to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 CFR 1.137(b)(3) provides that a petition under 37 CFR 1.137(b) must be accompanied by a statement that the delay was unintentional, but provides that "[t]he Director may require additional information where there is a question whether the delay was unintentional."

In this instance, additional information is required. As discussed in MPEP 711.03(c)(II)(D), there are three periods to be considered during the evaluation of a petition under 37 CFR 1.137:

(A) the delay in reply that originally resulted in the abandonment;
(B) the delay in filing an initial petition pursuant to 37 CFR 1.137 to revive the application; and

(C) the delay in filing a grantable petition pursuant to 37 CFR 1.137 to revive the application.

Furthermore, a petition to revive cannot be granted where any of the delays is determined to be intentional. The abandonment of an 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), where the applicant deliberately permits the application to become abandoned. See Application of G, 11 USPQ2d at 1380. 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).

Moreover, an intentional delay resulting from a deliberate course of action chosen by the applicant is not affected by:

(A) 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;
(B) the correctness or propriety of a rejection, or other objection, requirement, or decision by the Office; or
(C) 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 is the antithesis of an "unavoidable" or "unintentional" delay. An intentional abandonment of an application, or an intentional delay in seeking the revival of an abandoned application, precludes a finding of unavoidable or unintentional delay pursuant to 37 CFR 1.137. See Maldague, 10 USPQ2d at 1478.

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).

Petitioner/applicants have the burden of showing that the entire delay was unintentional. Applicants' failure to carry the burden of proof to establish that the "entire" delay was "unintentional" may lead to the denial of the petition under 37 CFR 1.137(b), regardless of the circumstances that originally resulted in the abandonment of the application.

Thus, on renewed petition, additional information is required with respect to the delay in filing this petition. The decision dismissing the petition to withdraw the holding of abandonment was mailed on January 18, 2007. The instant petition to revive was not filed until a year later on January 18, 2008.

It is further noted that petitioner states that the petition includes a Request for revocation of power of attorney. However, no request for revocation of power of attorney was received with the petition. The only document received other than the petition is another copy of the name change documentation originally submitted to the assignment branch. As previously stated, this is insufficient to change the power of attorney and correspondence address in this application. To make such changes applicants must file a revocation of power of attorney and a change of correspondence address in the application or, if applicable, in the Customer Number associated with the application. Further, petitioner should be mindful of the requirements for a change of correspondence address and revocation of power of attorney. See 37 CFR §§1.33, 1.36 and MPEP 324.

Given the statements on petition, the decision is being mailed to the QUALCOMM address, the address of the registered patent practitioner, who filed the instant petition. However, until such time as a proper change of correspondence address and, if necessary, revocation of power of attorney is filed, all future correspondence will be mailed to the correspondence address of record (that of Bourque & Associates, P.A.).

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: NANCY JOHNSON
SENIOR PETITIONS ATTORNEY

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Arlington, VA 22313-1450
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Paper No. 6

Anderson & Morishita, LLC
Suite 102
2725 S. Jones Blvd.
Las Vegas, NV 89146

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SEP 1 6 2003

OFFICE OF PETITIONS

In re Application of :
Dennis Gordon :
Application No. 10/350,961 : ON PETITION
Filed: January 24, 2003 :
Attorney Docket No. Gordon02-03 :

This is a decision on the petition under 37 CFR 1.137(b), filed August 25, 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 4, 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 5, 2003.

Telephone inquiries concerning this decision should be directed to Latrice Bond at (703) 308-6911.

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

Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,726,627	2004-04-27	10350994	2003-01-24	RIV09.027

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	/Keith D. Nowak/	Date (YYYY-MM-DD)	2008-05-08
Name	Keith D. Nowak	Registration Number	27367

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 6726627
Issue Date: April 27,2004
Application No. 10350994
Filed: January 24,2003
Attorney Docket No. AP32638-I-070266.0143

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

This is a decision on the electronic petition, filed May 8,2008 ,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 May 8,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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DEBRA Z. ANDERSON
ECKERT SEAMANS CHERIN & MELLOTT
44TH FLOOR
600 GRANT STREET
PITTSBURGH PA 15219

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SEP 0 3 2004

OFFICE OF PETITIONS

In re Application of	:	
Ross et al.	:	
Application No. 10/351,021	:	DECISION GRANTING PETITION
Filed: 24 January, 2003	:	
Attorney Docket No. 114578-00295	:	

This is a decision on the petition, filed on 28 July, 2004, under 37 CFR 1.137(f) which is treated as a petition to revive the above-identified nonprovisional application under the unintentional provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

Petitioner states that the present nonprovisional application is the subject of a foreign or international application filed on 23 January, 2004. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

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

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

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

required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The present petition has been found to be in compliance with 37 CFR 1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Communication stating that the projected publication date is 9 December, 2004, is enclosed with this decision.

Counsel's deposit account, No. 02-2556, has been charged the petition fee of $1330.00.

This decision is being forwarded to Technology Center 1600 for examination in due course.

Any inquiries concerning this decision may be directed to the undersigned at 703.308.6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JUN 2 2005

Viva Chu
Transplay, Inc.
11593 Harbor Way
San Leandro, CA 94576

In re application of
Viva Chu
Application No. 10/351,031 : DECISION ON REQUEST
Filed: January 24, 2003 : FOR WITHDRAWAL OF
For: ONLINE GAME ADVERTISING SYSTEM : ATTORNEY

This is a decision on the request filed on April 20, 2005 under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

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

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. Besides giving due notice to his or her client and delivering to the client all papers and property to which the client is entitled as specified under 37 CFR 10.40, approval of such a request requires that the following conditions be met:

A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;

B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and

C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

The request to withdraw as attorney in the above-identified application is not approved as moot because the power of attorney has already been changed as per the Notice regarding Change of Power of Attorney mailed December 23, 2004.

Since Power of Attorney has previously been withdrawn, the attorneys no longer have power to change the address of record. Therefore, the accompanying address change has not been made

Kenneth J. Dorner
Special Programs Examiner
Patent Technology Center 3600
(571) 272-6587

KJD/dcg: 5/26/05

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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MEDTRONIC VASCULAR, INC.
IP LEGAL DEPARTMENT
3576 UNOCAL PLACE
SANTA ROSA, CA 95403

Mail Date: 04/20/2010

Applicant	: Harry B. Goodson IV	: DECISION ON REQUEST FOR
Patent Number	: 7611528	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/351,055	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/24/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1153** 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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FEB 11 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Brian C. Kunzler
10 West 100 South
Salt Lake City UT 84101

In re Application of :
Wolfgang SINGER :
Application No. 10/351,059 :
Filed: January 24, 2003 :
For: **BLUETOOTH THEFT CONTROL** :

DECISION ON PETITION
TO RESET PERIOD
FOR REPLY

This is a decision on the petition filed on January 19, 2005, requesting that response period to the Office action mailed on July 15, 2004 be reset due to late receipt of Office action and that the fee for three months extension for responding to the Office action be refunded.

The petition is **DENIED.**

Petitioner contends that the Office action was not received or received late. Petitioner does not meet requirement (C) as set forth in MPEP 710.06. Namely petitioner has not provided evidence showing the date of receipt of the Office action at the correspondence address (e.g. a copy of the Office action having the date of receipt of the Office action at the correspondence address stamped thereon, a copy of the envelope (which contained the Office action) having the date of receipt stamped thereon, etc.

Given that petitioner has responded to the Office action mailed July 15, 2004. The file will be forwarded to the examiner for consideration of the response in due course.

Petitioner is given TWO MONTHS from the date of this decision to request reconsideration. This period is not extendable under 37 CFR § 1.136(a).

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Hewlett-Packard Company
Intellectual Property Administration
P.O. Box 272400
Fort Collins, CO 80527-2400

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In re Application of :
Edgar I. Circenis et al. :
Application No. 10/351,064 : ON PETITION
Filed: January 23, 2003 :
Attorney Docket No. 200208248-1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 29, 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 April 27, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). No extensions of time were obtained. Accordingly, the date of abandonment of this application is July 28, 2007. A Notice of Abandonment was mailed on November 16, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment (2) the petition fee of $1620, and (3) a proper statement of unintentional delay. Accordingly, the amendment is accepted as being unintentionally delayed.

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

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 Technology Center AU 2134 for further processing that is required by the Examiner in the normal course of business.

Carl Friedman
Petitions Examiner
Office of Petitions

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LEWIS AND ROCA LLP
1663 HWY 395, SUITE 201
MINDEN NV 89423

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In re Application of :
THOMPSON, Paul :
Application No. 10/351,098 : DECISION ON PETITION
Filed: January 22, 2003 : TO WITHDRAW
Attorney Docket No. **THOM-001** : 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. 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 Kenneth D'Alessandro on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Paul Thompson at the address indicated below.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **PAUL THOMPSON**
P.O. BOX 1036
WALNUT GROVE, CA 95690

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MCKEE, VOORHEES & SEASE, P.L.C.
801 GRAND AVENUE
SUITE 3200
DES MOINES IA 50309-2721

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OFFICE OF PETITIONS

In re Application of :
Puneet Nanda :
Application No. 10/351,104 :
Filed: January 24, 2003 :
Attorney Docket No. P05903US0 :

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed May 4, 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 22, 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 (703) 305-9220.

This application is being forwarded to Technology Center Art Unit 1744 for examination in due course.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
www.uspto.go

John P. Costello
Weintraub Genshlea Chediak Sproul
11th Floor
400 Capitol Mall
Sacramento CA 95814

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OFFICE OF PETITIONS

In re Application of
Blanchard
Application No. 10/351,107
Filed: January 24, 2003
For: ION DETECTING APPARATUS AND METHODS

: Letter re Publication

This is in reply to "Nonpublication Request," which was filed on May 15, 2003.

Applicant's request cannot be granted.

35 U.S.C. 122(b) requires the United States Patent and Trademark Office to publish utility and plant applications filed on or after November 29, 2000, unless, on filing, applicant requested nonpublication with the required certification. The statute also permits the Office to publish applications filed before November 29, 2000, when applicant requests publication of such an application.

The Office has no statutory authority to accept a nonpublication request that was not filed on the filing date of the application. The application remains scheduled to publish on July 31, 2003.

If applicant desires to avoid publication, he may file a continuation application under 37 CFR 1.53(b) with a nonpublication request claiming benefit to the instant application under 35 U.S.C. 120 and thereafter abandoning the application. To avoid publication, the abandonment must be received by the Office and recognized in time to avoid publication. For further information see the "Q's & A's" under the American Inventors Protection Act of 1999 (AIPA), which is under Patents on the USPTO website, and posted at: http://www.uspto.gov/web/offices/dcom/olia/aipa/infoexch.htm

The application is being forwarded to Group Art Unit 2881 to await further examination in due course.

Telephone inquiries regarding this communication should be directed to the undersigned at (703)308-8122.

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

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EUGENE G. BILOBRAM
403 STEUBBEN AVE.
FORKED RIVER NJ 08731

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JUL 08 2010

OFFICE OF PETITIONS

In re Application of :
Eugene G. Bilobram :
Application No. 10/351,116 : DECISION ON PETITION
Filed: January 24, 2003 :
Title: Platform For The Display Of A Document Cover :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 14, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to reply in a proper and timely manner to the final Office action mailed December 15, 2008. A three-month extension of time under the provisions of 37 CFR 1.136(a) was timely obtained. Accordingly, this application became abandoned on June 16, 2009. A Notice of Abandonment was mailed on September 22, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405.00 and the submission required by 37 CFR 1.114; (2) the petition fee of $810.00; and (3) a proper statement of unintentional delay.

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

This matter is being referred to Technology Center 3611 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Joan Olszewski
Petitions Examiner
Office of Petitions

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HEWLETT-PACKARD COMPANY
INTELLECTUAL PROPERTY ADMINISTRATION
P.O. BOX 272400
FORT COLLINS, CO 80527-2400

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OFFICE OF PETITIONS

In re Application of :
Edgar I. Circenis, et al. :
Application No. 10/351,128 : ON PETITION
Filed: January 23, 2003 :
Attorney Docket No. 200208237-1 :

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

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of John P. Wagner, Jr. appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the final Office action mailed December 21, 2006. This decision precedes the mailing of a Notice of Abandonment. On October 29, 2007, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE), including the fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1,540; and (3) an adequate statement of unintentional delay[1].

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

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

This application is being referred to Technology Center AU 2115 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.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

MORGAN & FINNEGAN L.L.P.
3 WORLD FINANCIAL CENTER
NEW YORK, NY 10281-2101

In re Application of :
Attila T. Lorincz :
Application No. 10/351,149 : NOTICE
Filed: January 24, 2003 :
Attorney Docket No. 2629-4005US5

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 8/28/07

Paper No.: _____

TO SPE OF : ART UNIT 1762

SUBJECT : Request for Certificate of Correction on Patent No.: 1835155

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

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

Valerie Jackson

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 ext. 114

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

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

Comments:

TIMOTHY MEEKS
SUPERVISORY PATENT EXAMINER

_____ SPE

1792 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.

ZYMOGENETICS, INC.
INTELLECTUAL PROPERTY
DEPARTMENT
1201 EASTLAKE AVENUE EAST
SEATTLE WA 98102-3702

COPY MAILED

JAN 08 2009

OFFICE OF PETITIONS

In re Application of	:	
Sprecher et al.	:	
Application No. 10/351,157	:	ON APPLICATION
Filed: January 23, 2003	:	FOR
Atty Docket No. 02-02	:	PATENT TERM ADJUSTMENT

This is in response to the APPLICATION FOR PATENT TERM UNDER 37 C.F.R. 1.705(b) filed on July 14, 2008. Applicants request correction of the patent term adjustment by two hundred sixty eight (268) days from seven hundred five (705) days to nine hundred seventy three (973) days solely on the basis of the Office taking in excess of three years to issue the patent.

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[1]. A decision is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.703(b).

Patentees are given **TWO (2) MONTHS** from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within 3 years. A copy of this decision should accompany the request. Patentees may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated

[1] Citing each adjustment and reduction of record, applicants otherwise agree with the determination of patent term adjustment of 705 days indicated in the notice of allowance.

in the patent, all requirements of § 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

Petitioner is reminded that if an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004).

The $200.00 fee set forth in 37 CFR 1.18(e) will be charged to counsel's deposit account as authorized on the Fee(s) Transmittal sheet. No additional fees are required.

The application file is being forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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Paper No. 6

MAIL

MAR 12 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

KING & SCHICKLI, PLLC
247 NORTH BROADWAY
LEXINGTON KY 40507

In re Application of :
Mostert et al. :
Application No. 10/351,176 : DECISION ON PETITION
Filed: January 25, 2003 : TO MAKE SPECIAL
For: METHODS AND COMPUTER-READABLE :
MEDIUM FOR TRACKING MOTION :

This is a decision on the petition to make special filed Januray 25, 2003 (paper No. 2) under MPEP §708.02 (IV), applicant's age.

A petition to make special under MPEP §708.02, IV, must show that petitioner is 65 years of age, or more. Acceptable evidence includes a birth certificate, copy of a driver's license, or simply a statement by the applicant. No fee is required.

The petition includes a statement by Mr. Paul S. Mostert, in support of the petition, evidencing that he is over 65 years of age.

Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant.

The application is being forwarded to the examiner for expedited prosecution.

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4778

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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STEVEN VOSEN
1563 SOLANO AVENUE #206
BERKELEY, CA 94707

COPY MAILED
MAR 20 2007
OFFICE OF PETITIONS

In re Application of

Steven H. Rempell :

Application No. 10/351,182

: DECISION ON PETITION

Filed: January 24, 2003

:

Attorney Docket No. XPR.001US1

This is a decision on the renewed petition under 37 CFR 1.137(b), filed, November 17, 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 election/restriction requirement mailed March 21, 2006, which set a shortened period for reply of one (1) months from its mailing date. No extension of time pursuant to 37 CFR 1.136(a) was obtained within the allowable period. Accordingly, the application became abandoned on June 22, 2006. A Notice of Abandonment was mailed on October 16, 2006.

The election filed November 17, 2006, is noted.

The application is being forwarded to Technology Center 2100, GAU 2178 for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Mailed: 11/5/04

spg
Paper Number

In re application of
John C. Harkness
Serial No. 10/351,201
Filed: January 24, 2003
For: COPPER-BERYLLIUM ALLOY STRIP

DECISION ON
PETITION

This is a response to the PETITION TO WITHDRAW HOLDING OF ABANDONMENT PURSUANT TO 37 C.F.R. § 1.181(a) filed April 16, 2004. The petition requests that the abandonment, as set forth in the Notice of Abandonment of February 03, 2004, be withdrawn since the applicant did not receive the Action mailed March 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 the letter mailed from the Office on June 07, 2004 states that the abandonment has been withdrawn and the application returned to active status. This action was mailed before the petition reached the director's office. The petition is therefore moot.

The petition is DISMISSED.

JStone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

John E. Miller
Calfee, Halter, & Griswold LLP
800 Superior Avenue, Suite 1400
Cleveland, OH 44114-2688

UNITED STATES PATENT AND TRADEMARK OFFICE

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JJGJR.: 03-04

Paper No: 10

LEYDIG VOIT & MAYER, LTD
TWO PRUDENTIAL PLAZA, SUITE 4900
180 NORTH STETSON AVENUE
CHICAGO IL 60601-6780

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OFFICE OF PETITIONS

In re Application of
Hennessy :
Application No. 10/351,237 : ON PETITION
Filed: 24 January, 2003 :
Attorney Docket No. 220587 :

This is a decision on the petition filed on 6 February, 2006, to revive the above-identified application under 37 C.F.R. §1.137(a)

For the reasons set forth below, the petition under 37 C.F.R.§1.137(a) is **DISMISSED**.

NOTES:

(1) Any petition (and fee) for reconsideration of this decision under 37 C.F.R. §1.137(a) (as to unavoidable delay) or an alternative request for relief under 37 C.F.R. §1.137(b)[1] (as to unintentional delay) must be submitted within two (2) months from the mail date of this decision. Extensions of time under 37 C.F.R.

[1] Effective December 1, 1997, the provisions of 37 C.F.R. §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 C.F.R. §1.137(b). a grantable petition filed under the provisions of 37 C.F.R. §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 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. The Commissioner may require additional information where there is a question whether the delay was unintentional; and
(4) any terminal disclaimer (and fee set forth in 37 C.F.R. §1.20(d)) required pursuant to 37 C.F.R. §1.137(c). (Emphasis supplied.)

§1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.137(a)"; and/or "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 Notice of Allowance and Fees Due mailed on 9 September, 2005, with a reply due under a non-extendable deadline on or before 9 December, 2005;
- Petitioner's submission of fees due was made by authorization to a deposit account and at the time the transaction was attempted to be charged there were insufficient funds in the account;
- as a result, the application was deemed abandoned after midnight 9 December, 2005;
- the Office mailed the Notice of Abandonment on 20 January, 2006;
- in the instant petition (with fee authorization) , Petitioner simply avers what already is known–that the Office was authorized to charge fees but there were not sufficient funds to satisfy that authorization–and makes no other showing.

The failure to have sufficient funds in an account is a mistake. An error. A misjudgment. It is not the result of having done all things proper and necessary in the management of an account.

Petitioner is reminded to consult the MPEP Chapter 700, specifically MPEP §711.03(c) for a discussion of the requirements as to petitions to revive under 37 C.F.R. §1.137(a).

Further, it is evident from the instant filing that Petitioner is unlikely to satisfy the showing requirement of 37 C.F.R. §1.137(a), and Petitioner's only relief likely is a petition under 37 C.F.R. §1.137(b).

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the

satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[3] Delays in responding properly raise the question whether delays are unavoidable.[4] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[5]

And the Petitioner must be diligent in attending to the matter.[6] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[7]))

As to the Allegation
of Unavoidable Delay

The requirements for a grantable petition under 37 C.F.R. §1.137(a) are the petition and fee, a

---

[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 and/or deposited for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely prepared and/or deposited for shipment.

showing of unavoidable delay, a proper reply, and–where appropriate--a terminal disclaimer and fee if the application was filed before 8 June, 1995.

With regard to the petition to revive under 37 C.F.R. §1.137(a), Petitioner has failed to satisfy the "showing" requirements under the regulation.

ALTERNATIVE VENUE

If Petitioner is unable to make a showing of unavoidable delay, Petitioner's only alternative to irretrievable abandonment is to file a petition under 37 C.F.R. §1.137(b) (state therein 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").

Thus, Petitioner may wish to supplement the petition to plead alternatively under 37 C.F.R. §1.137(b) wherein the "showing" burden is much less onerous.

CONCLUSION

The instant petition under 37 C.F.R. §1.137(a) is **dismissed**, and the petition fee is charged as authorized to Deposit Account 12-1216.

Further correspondence with respect to this matter should be addressed as follows:[8]

By mail: Commissioner for Patents[9]
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: IFW Formal Filings
(571) 273-8300
ATTN.: Office of Petitions

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[8] On July 15, 2005, the Central Facsimile (FAX) Number will change from (703) 872-9306 to (571) 273-8300. Faxes sent to the old number will be routed to the new number until September 15, 2005. After September 15, 2005, the old number will no longer be in service and (571) 273-8300 will be the only facsimile number recognized for centralized delivery. (For further information. see: http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/cfax062005.pdf .)

[9] To determine the appropriate addresses for other subject-specific correspondence, refer to the USPTO Web site at www.uspto.gov.

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JJGJR.: 04-04

Paper No: __

LEYDIG VOIT & MAYER, LTD
TWO PRUDENTIAL PLAZA, SUITE 4900
180 NORTH STETSON AVENUE
CHICAGO IL 60601-6780

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APR 0 5 2006

OFFICE OF PETITIONS

In re Application of
Hennessy :
Application No. 10/351,237 : ON PETITION
Filed: 24 January, 2003 :
Attorney Docket No. 220587 :

This is a decision on the petition filed on 13 March, 2006, to revive the above-identified application under 37 C.F.R. §1.137(b)

For the reasons set forth below, the petition under 37 C.F.R.§1.137(b) is **GRANTED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the Notice of Allowance and Fees Due mailed on 9 September, 2005, with a reply due under a non-extendable deadline on or before 9 December, 2005;

- Petitioner's submission of fees due was made by authorization to a deposit account and at the time the transaction was attempted to be charged there were insufficient funds in the account;

- as a result, the application was deemed abandoned after midnight 9 December, 2005;

- the Office mailed the Notice of Abandonment on 20 January, 2006;
- the original petition (with fee authorization) filed under 37 C.F.R. §1.137(a) on 6 February, 2006, was dismissed on 3 March, 2006, because Petitioner simply averred what already was known–that the Office was authorized to charge fees but there were not sufficient funds to satisfy that authorization–and made no other showing as to unavoidable delay;
- the instant petition (with fee), is accompanied by the statement of unintentional delay and the fees (including the Issue Fee) previously were paid as the reply.

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[1]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[2] Delays in responding properly raise the question whether delays are unavoidable.[3] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[4]

---

[1] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

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

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

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

And the Petitioner must be diligent in attending to the matter.[5] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

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

As to the Allegation
of Unintentional Delay

The requirements for a grantable petition under 37 C.F.R. §1.137(b) are the petition and fee, a statement/showing of unintentional delay, a proper reply, and–where appropriate--a terminal disclaimer and fee if the application was filed before 8 June, 1995.

Petitioner has satisfied the requirements under the regulation.

CONCLUSION

The instant petition under 37 C.F.R. §1.137(a) is **granted**.

The instant application is released to Publications Branch to be processed into a patent in due course.

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

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

---

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

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

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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

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FEB 15 2005

OFFICE OF PETITIONS

In re Application of :
James Rodney Norton et al :
Application No. 10/351,244 : DECISION GRANTING PETITION
Filed: January 24, 2003 : UNDER 37 CFR 1.137(b)
Attorney Docket No. BT12 02105301 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 7, 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 the required fees; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice To File Missing Parts Of Nonprovisional Application of April 11, 2003, is accepted as having been unintentionally delayed.

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

This matter is being referred to the Office of Initial Patent Examination.

Karen Creasy

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
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DCM

JUL 2 9 2004

In re Application of
James Ryan
Serial Number: 10/351,250
Filed: January 24, 2003
For: ULTRASONIC SPLITTING OF PHOTOVOLTAIC CELLS AND MODULES

PETITION UNDER
M.P.E.P.708.02 VI

This is in response to the petition filed July 3, 2003, requesting that the above-identified application be granted Special Status under Section 708.02 VI of the MPEP and 37 CFR 1.102(c) **(no fee required)**.

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

Accordingly the petition is **GRANTED.**

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

TESTA, HURWITZ & THIBEAULT, LLP
HIGH STREET TOWER
125 HIGH STREET
BOSTON MA 02110

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

ROBERT W BERGSTROM
OLYMPIC PATENT WORKS PLLC
PO BOX 4277
SEATTLE WA 98104

In re Application of :
Sky Kruse :
Application No. 10/351,270 : ON PETITION
Filed: January 23, 2003 :
Attorney Docket No. 35016.001 :

This is a decision on the petition to revive under 37 CFR 1.137(b), filed November 13, 2009.

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

The above-identified application became abandoned for failure to timely file a reply in response to the non-final Office action, mailed May 31, 2007. This Office action set a shortened statutory period for reply of three months. No reply having been received, the application became abandoned on September 1, 2007. The Office mailed a Notice of Abandonment on December 26, 2007.

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

The application is being forwarded to Group Art Unit 2137 for consideration of the Amendment, filed November 13, 2009.

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

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 7

Knobbe, Martens, Olson & Bear, LLP
2040 Main Street
Fourteenth Floor
Irvine, CA 92614

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OCT 15 2004

OFFICE OF PETITIONS

In re Application of :
James H. Coombs :
Application No. 10/351,280 : ON PETITION
Filed: January 23, 2003 :
Attorney Docket No. NAGACO.032A :

This is a decision on the petition under 37 CFR 1.137(b), filed September 7, 2004, to revive the above-identified application.

The petition is **GRANTED**.

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

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

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

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

PATENT GROUP
CHOATE, HALL & STEWART
EXCHANGE PLACE, 53 STATE STREET
BOSTON, MA 02109

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OCT 2 0 2003

OFFICE OF PETITIONS

In re Application of :
Bergen et al. :
Application No. 10/351,287 : ON PETITION
Filed: January 23, 2003 :
Attorney Docket No. IMM-10401 :

This is a decision on the petition under 37 CFR 1.182, filed September 17, 2003, to change the name of an inventor.

The petition is **granted**.

The name will be changed from Clara Bajgar to Lee C. Bergen.

"If the application is assigned, applicant should submit a corrected assignment document along with a cover sheet and the recording fee as set forth in 37 CFR 1.21(h) to the Assignment Division for a change in the assignment record." MPEP 605.04(c).

This application is being forwarded to Technology Center 3700 for prosecution in due course.

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

Attached: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Paper No. 15

RAY K. SHAHANI
TWIN OAKS OFFICE PLAZA
SUITE 112
477 NINTH AVENUE
SAN MATEO, CA 94402-1854

COPY MAILED

JUL 0 9 2004

OFFICE OF PETITIONS

In re Application of
Michael J. Hall et al
Application No. 10/351,293
Filed: January 24, 2003
Attorney Docket No. CLX-105 (426.04D)

: DECISION GRANTING PETITION
: UNDER 37 CFR 313(c)(2)

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 10, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

Upon receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center AU 3751 for processing of the request for continued examination under 37 CFR 1.114.

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
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GLENN PATENT GROUP
3475 EDISON WAY, SUITE L
MENLO PARK, CA 94025

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JUL 21 2008

OFFICE OF PETITIONS

In re Application of :

HARPER, et al. :
Application No. 10/351,295 : DECISION ON PETITION
Filed: January 23, 2003 : TO WITHDRAW
Attorney Docket No. ISAA0085 : FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 1, 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 Michael A. Glenn 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 as it 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 June 17, 2008 that requires a reply from the applicant.

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: JONATHAN E. HARPER
302 PEERLESS STREET
LOUISVILLE, CO 80027

cc: JAMES CLEARY
MINTZ LEVIN COHN FERRIS BLOVSKY & POPEO, PC
9255 TOWNE CENTRE DRIVE, SUITE 600
SAN DIEGO, CO 92121

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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MAR 2 8 2007

OFFICE OF PETITIONS

In re Application of :
Bruce M. Khouri et al. :
Application No. 10/351,299 : ON PETITION
Filed: January 23, 2003 :
Attorney Docket No.: **49554/MEG/S1103** :

This is a decision on the petition under 37 CFR 1.182, filed November 22, 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. Bruce M. Khouri

2. Edward J. Stevenson

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

This matter is being referred to Technology Center 1753 for examination in due course.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/351,299	01/23/2003	1753	883	49554/MEG/S1103	47	2

CONFIRMATION NO. 2085

23363
CHRISTIE, PARKER & HALE, LLP
PO BOX 7068
PASADENA, CA 91109-7068

CORRECTED FILING RECEIPT

OC000000023140332

Date Mailed: 03/28/2007

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)

. Bruce M. Khouri, Glendale, CA;
Edward J. Stevenson, Malibu, CA;

Power of Attorney: The patent practitioners associated with Customer Number **23363**.

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 03/07/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/351,299

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Integrated photovoltaic roofing component and panel

Preliminary Class

136

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

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MAY 2 0 2005

OFFICE OF PETITIONS

In re Application of :
Masayuki Endo et al :
Application No. 10/351,308 : ON PETITION
Filed: January 27, 2003 :
Attorney Docket No. 60188-488

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 February 23, 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 1756 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

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

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

Paper No. None

FREEDMAN & ASSOCIATES
117 CENTREPOINTE DRIVE
SUITE 350
NEPEAN, ONTARIO K2G 5X3 CA CANADA

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MAR 30 2006

OFFICE OF PETITIONS

In re Application of
NEIL HUTTON
Application No. 10/351,321
Patent No. 6,925,363
Filed: January 27, 2003
Issue Date: August 2, 2005
Attorney Docket No. 12M-26 US
Title: POWER ALLOCATION CONTROL IN AN OVERDEMAND SITUATION OF AN AIRPORT SUPPORT SYSTEM

DECISION ON PETITION
UNDER 37 C.F.R. §1.28(c)

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. The petition is **GRANTED** accordingly.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.

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

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

FAX RECEIVED

MAY 26 2005

OFFICE OF PETITIONS

In re Application of :
Kazuki Takemoto et al :
Application No. 10/351,326 :
Filed: January 27, 2003 :
Attorney Docket No. 00862.022869 :

ON PETITION

This is a decision on the petition, filed May 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 23, 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 2863 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

---

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

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Paper No. None

APEX JURIS, PLLC
TRACY M HEIMS
LAKE CITY CENTER, SUITE 410
12360 LAKE CITY WAY NORTHEAST
SEATTLE WA 98125

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MAY 2 4 2006

OFFICE OF PETITIONS

In re Application of :
Yi-Wei Lu et al. :
Application No. 10/351,364 :
Filed: January 27, 2003 : DECISION ON PETITION
Attorney Docket No. LU18 : UNDER 37 C.F.R. §1.181(A)
Title: OPTICAL PICKUP HEAD :
ADJUSTING MECHANISM FOR OPTICAL :
DISC DRIVE :

This is a decision on the petition under 37 C.F.R. §1.181(a) to withdraw the holding of abandonment, filed on March 30, 2006[1].

BACKGROUND

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 May 27, 2005, which set a shortened statutory period for reply of three (3) months. An after-final amendment was received on September 12, 2005 along with a one-month extension of time, and an advisory action was mailed on September 26, 2005. No additional extensions of time under the provisions of 37 CFR §1.136(a) were obtained, and no further responses were received. Accordingly, the above-identified application became abandoned on September 28, 2005. A notice of abandonment was mailed on February 22, 2006.

With the present petition, Petitioner has alleged that the advisory action of September 15, 2005 was not received. A discussion follows.

1 Petitioner has also submitted an amendment and a Request for Continued Examination. Both will be entered upon the revival of this application.

RELEVANT LAW, PORTIONS OF THE C.F.R., AND MPEP

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 Director in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Director that such delay was unavoidable.
>
> (Amended Nov. 29, 1999, Public Law 106-113, sec. 1000(a)(9), 113 Stat. 1501A-582 (S. 1948 sec. 4732(a)(10)(A)).)

MPEP 711.03(c) sets forth, 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.

37 C.F.R. § 1.134, Time period for reply to an Office action.

An Office action will notify the applicant of any non-statutory or shortened statutory time period set for reply to an Office action. Unless the applicant is notified in writing that a reply is required in less than six months, a maximum period of six months is allowed.

[47 FR 41276, Sept. 17, 1982, effective Oct. 1, 1982; revised, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997]

37 CFR §1.135, Abandonment for failure to reply within time period:

(a) If an applicant of a patent application fails to reply within the time period provided under § 1.134 and § 1.136, the application will become abandoned unless an Office action indicates otherwise.
(b) Prosecution of an application to save it from abandonment pursuant to paragraph (a) of this section must include such complete and proper reply as the condition of the application may require. The admission of, or refusal to admit, any amendment after final rejection or any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment.
(c) When reply by the applicant is a bona fide attempt to advance the application to final action, and is substantially a complete reply to the non-final Office action, but consideration of some matter or compliance with some requirement has been inadvertently omitted, applicant may be given a new time period for reply under § 1.134 to supply the omission.

ANALYSIS

The showing in the present petition is not sufficient to withdraw the holding of abandonment. Petitioner has included a statement from the practitioner stating that the Office communication was not received by the practitioner. Petitioner has not submitted an attestation to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. In addition, the copy of the docket record where the non-received Office communication would have been entered had it been received and docketed has been attached, but it cannot be accepted for the contents of the same cannot be discerned - it is not written in English, and it does not appear that a translation has been provided.

Petitioner has indicated that it is believed that both the advisory action and the notice of abandonment were mailed to an entity other than himself. Petitioner is correct. A search of the electronic file reveals that a Revocation of Power of

Attorney with New Power of Attorney and Change of Correspondence Address was received along with the after-final amendment on September 12, 2005. The form Petitioner submitted has been reviewed, and it is noted that the form contains the request to change the address to that of customer number "027765" and appoint the practitioners associated with customer number "027765." Unfortunately, "027765" contains six digits, and customer numbers only contain five digits. As such, it does not appear that either of these requests were able to be granted. On renewed petition, Petitioner should re-submit this form with the proper customer number placed thereon.

Finally, even if Petitioner were to establish that the advisory action was not received and that the Power of Attorney with New Power of Attorney and Change of Correspondence Address should have been entered, the Office would not be in a position to grant his request to withdraw the holding of abandonment, for it was the final Office action which set the period for response, and not the advisory action.

The final Office action, which was clearly received, set forth a three-month period for response, and indicated that extensions of time were available, but "in no event...may a reply be timely filed after six (6) months from the mailing date of this communication[2]," pursuant to 35 U.S.C. 133, reproduced above. Petitioner's response included a one-month extension of time, and therefore the Advisory action indicated that "the period for reply expires four months from the mailing date of the final rejection[3]." As such, the advisory action merely reiterated the period for response which was set forth in the final Office action - three months from the mailing date of the same, plus any extensions of time, with a maximum extendable period for response expiring on the six month anniversary of the mailing of the final rejection.

Since the advisory action did not set any period for response, the Office cannot grant Petitioner's request to re-mail the advisory action "with a new response time period."

CONCLUSION

For the reasons discussed above, the petition under 37 C.F.R. §1.181 must be **DISMISSED**.

Any renewed petition under 37 C.F.R. §1.181 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.

---

2 Office action summary, mailed with the final Office action.
3 Advisory action, page one.

The request for reconsideration should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.181," and should only address the deficiencies noted in this decision.

Petitioner may wish to strongly consider filing a petition under 37 C.F.R. §§1.137(a) and/or (b).

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[4], hand-delivery[5], or facsimile[6].

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.

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

cc: Winston Hsu
P.O. BOX 506
MERRIFIELD, VA 22116

Encl. Advisory action, mailed on September 26, 2005
Notice of Abandonment, mailed on February 22, 2006.

---

4 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
5 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
6 (571) 273-8300- please note this is a central facsimile number.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/351,364	01/27/2003	Yi-Wei Lu	LU18	3667

35870 7590 09/26/2005

APEX JURIS, PLLC
13194 EDGEWATER LANE NORTHEAST
SEATTLE, WA 98125

EXAMINER	
KLIMOWICZ, WILLIAM JOSEPH	

ART UNIT	PAPER NUMBER
2652	

DATE MAILED: 09/26/2005

Courtesy Copy

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

Advisory Action Before the Filing of an Appeal Brief	**Application No.** 10/351,364	**Applicant(s)** LU ET AL.	
	Examiner William J. Klimowicz	**Art Unit** 2652	

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

THE REPLY FILED 12 September 2005 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 4 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

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

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

NOTICE OF APPEAL

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

AMENDMENTS

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

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

AFFIDAVIT OR OTHER EVIDENCE

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

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
13. ☐ Other: _____.

William J. Klimowicz
Primary Examiner
Art Unit: 2652

Continuation of 11. does NOT place the application in condition for allowance because: the Examiner maintains the rejection of record the reasons articulated in the Office action made FINAL, mailed on May 12, 2005 .

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/351,364	01/27/2003	Yi-Wei Lu	LU18	3667

35870 7590 02/22/2006

APEX JURIS, PLLC
LAKE CITY CENTER, SUITE 410
12360 LACE CITY WAY NORTHEAST
SEATTLE, WA 98125

EXAMINER	
KLIMOWICZ, WILLIAM JOSEPH	
ART UNIT	**PAPER NUMBER**
2652	

DATE MAILED: 02/22/2006

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

Notice of Abandonment	Application No.	Applicant(s)	
	10/351,364	LU ET AL.	
	Examiner	Art Unit	
	William J. Klimowicz	2652	

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

This application is abandoned in view of:

1. ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on *27 May 2005*.
   (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
   (b) ☒ A proposed reply was received on *12 September 2005*, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.

   (A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
   (c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
   (d) ☐ No reply has been received.

2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
   (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
   (b) ☐ The submitted fee of $_____ is insufficient. A balance of $_____ is due.

   The issue fee required by 37 CFR 1.18 is $_____. The publication fee, if required by 37 CFR 1.18(d), is $_____.
   (c) ☐ The issue fee and publication fee, if applicable, has not been received.

3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
   (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
   (b) ☐ No corrected drawings have been received.

4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.

5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.

6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.

7. ☐ The reason(s) below:

William J. Klimowicz
Primary Examiner
Art Unit: 2652

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

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Paper No. None

NORTH AMERICA INTELLECTUAL PROPERTY CORPORATION
P.O. BOX 506
MERRIFIELD VA 22116

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AUG 22 2006
OFFICE OF PETITIONS

In re Application of :
Yi-Wei Lu et al. :
Application No. 10/351,364 :
Filed: January 27, 2003 : DECISION ON PETITION
Attorney Docket No. LU18 : UNDER 37 C.F.R. §1.137(B)
Title: OPTICAL PICKUP HEAD :
ADJUSTING MECHANISM FOR OPTICAL :
DISC DRIVE :

This is a decision on the petition filed July 27, 2006, pursuant to 37 C.F.R. §1.137(b)[1], to revive the above-identified application.

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R §1.113 in a timely manner to the final Office action mailed May 27, 2005, which set a shortened statutory period for reply of three (3) months. An after-final amendment was received on September 12, 2005 along with a one-month extension of time, and an advisory action was mailed on September 26, 2005. No additional extensions of time under the provisions of 37 C.F.R §1.136(a) were obtained, and no

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.

further responses were received. Accordingly, the above-identified application became abandoned on September 28, 2005. A notice of abandonment was mailed on February 22, 2006.

Petitioner had previously submitted a Request for Continued Examination (RCE) under 37 C.F.R. §1.114 and the associated fee along with a petition under 37 C.F.R. §1.181 on March 30, 2006. This petition was dismissed via the mailing of a decision on May 24, 2006.

The present petition under 37 C.F.R. §1.137(b) was received on July 27, 2006, along with the petition fee, along as well as the associated fee and the proper statement of unintentional delay. No terminal disclaimer is required. The RCE has been accepted as the required reply under 37 C.F.R. §1.137(b)(1). The previously submitted amendment of March 30, 2006 shall serve as the required submission.

As such, the petition under 37 C.F.R. §1.137(b) is **GRANTED**.

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the amendment of March 30, 2006 can be processed.

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

Paul Shanoski

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

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

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MAY 17 2007

OFFICE OF PETITIONS

In re Application of :
Alan S. Waggoner et al :
Application No. 10/351,369 : DECISION GRANTING PETITION
Filed: January 27, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 2201-28 :

This is a decision on the petition, filed May 16, 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 April 9, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being retained in the Office of Petitions for consideration of the concurrently filed petition under 37 CFR 1.78(a)(3) to accept a late claim for benefit of priority to prior-filed applications.

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 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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ARLINGTON, VA 22203

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MAY 31 2007

OFFICE OF PETITIONS

In re Application of	:	
Alan S. Waggoner et al	:	
Application No. 10/351,369	:	DECISION ON PETITION
Filed: January 27, 2003	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 2201-28	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed May 16, 2007, 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 concurrently filed amendment.

The petition is **GRANTED.**

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

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) and (iii) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and 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 benefit of 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 this application is entitled to the benefit of the earlier filing date.

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

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3218. 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 1625 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications.

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/351,369	01/27/2003	1625	1180	2201-28	16	1

CONFIRMATION NO. 3851

23117
NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

CORRECTED FILING RECEIPT

OC000000024142303

Date Mailed: 05/30/2007

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)

Alan S. Waggoner, Pittsburgh, PA;
Ratnakar B. Mujumdar, Pittsburgh, PA;

Assignment For Published Patent Application

Carnegie Mellon University

Power of Attorney:

B Sadoff--36663

Domestic Priority data as claimed by applicant

This application is a CON of 09/639,941 08/17/2000 ABN
which is a CON of 09/212,564 12/16/1998 PAT 6,133,445
which is a CIP of 08/992,212 12/17/1997 ABN

Foreign Applications

If Required, Foreign Filing License Granted: 04/16/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/351,369

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

RIGIDIZED TRIMETHINE CYANINE DYES

Preliminary Class

546

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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REED SMITH LLP
3110 Fairview Park Dr.
Suite 1400
Falls Church, VA 22042

MAIL

AUG 19 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of:
KITANI et al
Application No. 10/351,382
Filed: January 27, 2003
For: SECURE STORAGE SYSTEM

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the renewed petition, filed on June 27, 2005 under 37 C.F.R. §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 C.F.R. § 102(d) states in relevant part:

> A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:
>
> (A) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);
>
> (B) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;
>
> (C) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;
>
> (D) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and
>
> (E) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.
>
> In those instances where the request for this special status does not meet all the prerequisites set forth above, applicant will be notified and the defects in the request will be stated. The application will remain in the status of a new application awaiting action in its regular turn. In those instances where a request is defective in one or more respects, applicant will be given one

> opportunity to perfect the request in a renewed petition to make special. If perfected, the request will then be granted. If not perfected in the first renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Group Special Program Examiner.

Applicant's submission of June 27, 2005 meets all the criteria set out above. Accordingly, the petition is **GRANTED**. The application file is being forwarded to the Examiner for accelerated examination in accordance with M.P.E.P. § 708.02. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. § 1309.

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

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ARMSTRONG, KRATZ, QUINTOS, HANSON & BROOKS, LLP
1725 K STREET, N.W.
SUITE 1000
WASHINGTON DC 20006

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FEB 0 8 2006

OFFICE OF PETITIONS

In re Application of :
Katsutoshi Izumi et al :
Application No. 10/351,385 : ON PETITION
Filed: January 27, 2003 :
Attorney Docket No. 021740 :

This is a decision on the petition, filed February 7, 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 November 23, 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 2813 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).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. _____

Date : February 8, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Katsutoshi Izumi et al
Application No. :10/351,385
Filed :January 27, 2003

The above-identified application has been assigned Patent No. 6,998,330 and an issue date of February 14, 2006.

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

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of February 14, 2006:

"All reference to Patent No. 6,998,330 to Katsutoshi Izumi et al of Japan for MANUFACTURING METHOD FOR BURIED INSULATING LAYER-TYPE SEMICONDUCTOR SILICON CARBIDE SUBSTRATE appearing in the Official Gazette of February 14, 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
Tamara Greene, ST-8C13

UNITED STATES PATENT AND TRADEMARK OFFICE

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POULSEN ROSER PACIFIC, INC.
620 SOUTH FRONT STREET
CENTRAL POINT OR 97502

COPY MAILED

JUL 2 2 2005

OFFICE OF PETITIONS

In re Application of	:	
Evison et al.	:	
Application No. 10/351,413	:	DECISION ON PETITION
Filed: 24 January, 2003	:	
Atty Docket No. EVIPO006	:	

This is a decision on the petition filed on 22 June, 2005, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 30 July, 2003, for failure to timely file a proper reply to the non-final Office action mailed on 29 April, 2003, which set a three (3) month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. On 15 November, 2003, a Notice was mailed advising applicants that the

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

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

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

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

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

reply filed on 29 July, 2003, was improper because the person who signed the amendment, Ken Rynearrson, did not have authority to sign it, and that petitioners must provide evidence that the person signing the amendment had authority so to do. On 30 March, 2004, petitioners provided a Statement Under 37 CFR 3.73(b) establishing the authority of Ken Rynearrson to sign on behalf of assignee Poulsen Roser Pacific, Inc. Notice of Abandonment was mailed on 15 June, 2005.

Petitioners have shown that Ken Rynearrson is authorized to sign on behalf of the assignee. As such, the reply filed on 29 July, 2003, may now be accepted as a reply signed by a person with authority to sign on behalf of the assignee.

Receipt of the change of correspondence address filed with the present petition is acknowledged.

This application is being referred to Technology Center 1661 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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POULSEN ROSER PACIFIC, INC.
620 SOUTH FRONT STREET
CENTRAL POINT, OR 97502

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JUL 12 2005

OFFICE OF PETITIONS

In re Application of :
Raymond J. Evison et al :
Application No. 10/351,415 : ON PETITION
Filed: January 24, 2003 :
For: Clematis Plant Named 'EVIpo005' :

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

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." No additional fee is required with any renewed petition. Petitioner is advised that this is **not** a final agency action decision.

The above-identified application became abandoned for failure to reply in a timely manner to the Office letter (letter) mailed November 5, 2003. The letter set a period for reply of one (1) month or thirty (30) days (whichever is later) from the mail date of the letter. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on December 6, 2003.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by:

> (1) the required reply (unless previously filed), which may met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute, but must be the payment of the issue fee or any outstanding balance thereof in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof;
> (2) the petition fee as set forth in 37 CFR 1.17(m);
> (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)).

The instant petition does not satisfy requirement (1) above.

As to item (1), a reply to the office action mailed on DATE, has not been submitted. A proper reply to the office action must be submitted with the petition to revive for the petition to be granted.

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

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

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

By fax: (703) 872-9306 [1]
ATTN: Office of Petitions

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

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

[1] Effective July 15, 2005, the fax number will be 571-273-8300

UNITED STATES PATENT AND TRADEMARK OFFICE

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620 S. FRONT STREET
CENTRAL POINT, OR 97502

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JUL 2 8 2005

OFFICE OF PETITIONS

In re Application of :
Raymond J. Evison et al :
Application No. 10/351,415 :
Filed: January 24, 2003 :
For: Clematis plant named 'EVIpo005' :

CORRECTED DECISION
UNDER 37 CFR 1.137(b)

This is a corrected decision on the petition under 37 CFR 1.137(b), filed June 22, 2005, to revive the above-identified application. The decision dismissing the instant petition mailed on July 12, 2005 is vacated.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Office Notice (Notice) mailed November 5, 2003. The Notice set a period for reply of one (1) month or thirty (30) days (whichever is later) 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 December 6, 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 an amendment filed on July 29, 2003; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of November 5, 2003 is accepted as having been unintentionally delayed.

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

This matter is being referred to Technology Center AU 1661.

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

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MATTINGLY, STANGER, & MALUR, P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA, VA 22314

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MAR 2 1 2005

Technology Center 2100

In re Application of: Nakanishi, et al.
Application No. 10/351,420
Filed: January 27, 2003
For: SYSTEM AND METHOD FOR DATA BACKUP

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION) UNDER M.P.E.P. §708.02 (VIII)

This is a response to the petition filed December 29, 2004, under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **DISMISSED**.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in **37 CFR 1.17(h)**;

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The petition filed December 29, 2004 fails to adequately meet requirement (e) of the criteria set forth above.

With respect to requirement (e), a complete detailed discussion of the (aforementioned most closely related) references has not been provided with the necessary specificity required under 37 CFR 1.111 (b) and (c). Specifically, Petitioner should ensure that the above discussion is directed to how the language of **each of the independent claims** are specifically distinguishable and patentable from the references provided in requirement (d) above. It is noted that the independent claim 12 differs in scope from the discussion presented in the petition with respect to independent claims 1, 3, 5-6, and 9, specifically regarding the recited, or similarly recited, step of transmitting an instruction for backing up the identified file to the determined storage device based on the determined schedule.

Petition to Make Special **DISMISSED**.

Petitioner is given one opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted by a declaration or statement providing the information as outlined above.

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.

Brian L. Johnson
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

3/11/05

SDL: 03/11/05

UNITED STATES PATENT AND TRADEMARK OFFICE

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JJGJr: 06-03

Paper No: 5

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JUN 25 2003

OFFICE OF PETITIONS

DICKSTEIN SHAPIRO
MORIN & OSHINSKY, LLP
1177 AVENUE OF THE AMERICAS
NEW YORK NY 10036

In re Application of :
Miyazaki, et al. :
Application No. 10/351,448 : ON PETITION
Filed: 27 January, 2003 :
Attorney Docket No. M1071.1816 :

This is a decision on the petition filed on 7 May (supplemented on 24 June), 2003, styled as a "Petition for Granting of Filing Date," and considered under 37 C.F.R. §1.53 and thus treated as a petition requesting that the above-identified application be amended to include drawing Fig. 1 of the specification (description and claims) with the specification (description) already submitted.

The petition is **GRANTED**.

This application was deposited on 27 January, 2003. However, on 24 April, 2003, the Office mailed a "Notice of Incomplete Nonprovisional Application (Filing Date Not Granted)" in this nonprovisional application, stating that the application had not been accorded a filing date of because the papers deposited on 27 January, 2003, did not include at one (1) or more drawings consistent with 35 U.S.C. §112 " . . . where necessary for the understanding of the subject matter sought to be patented . . ." and advising applicants that the required drawing(s) appeared to have been omitted.

In response, the instant petition under 37 C.F.R. §1.53 was filed on 7 May and supplemented on 24 June, 2003. Through accompanying documentation, Petitioner states that this application is a divisional of Application No. 09/899,323 filed on 5 July, 2001, which is incorporated herein by reference, and, therefore, the omitted drawing does not constitute new matter.

Analysis

A search of the official file reveals that on 27 January, 2002, an unentitled paper was filed which itemized the filing of an application for patent. The paper states that the application is a "divisional under 37 C.F.R. §1.53(b) "prior Application No. 09/899,323 filed on 5 July, 2001," and that "[t]he entire disclosure of the prior application . . . is hereby incorporated . . . by reference."

Because Petitioner stated on the cover sheet that the entire disclosure of the prior application was incorporated by reference, and Petitioner has included that disclosure, and a statement in the petition attesting thereto, the present petition will be construed as a petition to accept the specification and claims deposited on 7 May and 24 June, 2003, as a complete copy of the entire disclosure filed with application No. 09/899,323 on 5 July, 2001. Petitioner must notify the Office if this is not a correct interpretation.

Because the 7 May, 2003, petition (and the supplement of 24 June, 2003) was not due to an error on the part of the Office, the petition fee submitted with it will not be refunded.[1]

The application is being forwarded to the Office of Initial Patent Examination for correction of the filing date to 27 January, 2003. The application will then be forwarded to for examination in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (703)305-9199.

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

[1] Pursuant to Petitioner's authorization, the petition fee ($130.00) is charged to Deposit Account 50-0842.

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

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MAR 0 6 2006

OFFICE OF PETITIONS

In re Application of :
Rong-Chang Liang et al :
Application No. 10/351,460 : ON PETITION
Filed: January 24, 2003 :
Attorney Docket No. 26822-0002 P4

This is a decision on the petition filed, February 22, 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 November 17, 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 2873 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

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

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FULBRIGHT & JAWORSKI L.L.P
2200 ROSS AVENUE, SUITE 2800
DALLAS, TX 75201-2784

MAILED

MAY 24 2010

OFFICE OF PETITIONS

In re Application of

Daniel H. JACKSON
Application No. 10/351,469
Filed: January 24, 2003
Attorney Docket No. **58895/P002US/10206318**

DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 19, 2010.

The request is **NOT APPROVED**.

The request to withdraw as attorney/agent of record and change of correspondence address is hereby not accepted. Petitioner has not complied with current USPTO requirements, set forth in 37 CFR 10.40 concerning Request for Withdrawal as Attorney and Change of Correspondence Address.

Petitioner has not properly submitted forwarding correspondence address information for the application.

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.***

The Office will also no longer change the correspondence address to that of a new practitioner unless the Request is accompanied by a power of attorney to a new practitioner (e.g., Form PTO/SB/82). All future communications from the Office will be directed to the above-listed address until otherwise properly notified by the applicant or a proper change of correspondence address has been submitted.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272- 7253. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

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

Attachment: Statement Under 37 CFR 3.73(b)

PTO/SB/96 (07-09)
Approved for use through 07/31/2012. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

STATEMENT UNDER 37 CFR 3.73(b)

Applicant/Patent Owner: _____

Application No./Patent No.: _____ Filed/Issue Date: _____

Titled:

_____, a _____

(Name of Assignee) (Type of Assignee, e.g., corporation, partnership, university, government agency, etc.

states that it is:

1. ☐ the assignee of the entire right, title, and interest in;

2. ☐ an assignee of less than the entire right, title, and interest in (The extent (by percentage) of its ownership interest is _____ %); or

3. ☐ the assignee of an undivided interest in the entirety of (a complete assignment from one of the joint inventors was made) the patent application/patent identified above, by virtue of either:

A. ☐ An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or for which a copy therefore is attached.

OR

B. ☐ A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as follows:

1. From: _____ To: _____

The document was recorded in the United States Patent and Trademark Office at

Reel _____, Frame _____, or for which a copy thereof is attached.

2. From: _____ To: _____

The document was recorded in the United States Patent and Trademark Office at

Reel _____, Frame _____, or for which a copy thereof is attached.

3. From: _____ To: _____

The document was recorded in the United States Patent and Trademark Office at

Reel _____, Frame _____, or for which a copy thereof is attached.

☐ Additional documents in the chain of title are listed on a supplemental sheet(s).

☐ As required by 37 CFR 3.73(b)(1)(i), the documentary evidence of the chain of title from the original owner to the assignee was, or concurrently is being, submitted for recordation pursuant to 37 CFR 3.11.

[NOTE: A separate copy (*i.e.*, a true copy of the original assignment document(s)) must be submitted to Assignment Division in accordance with 37 CFR Part 3, to record the assignment in the records of the USPTO. See MPEP 302.08]

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

_____ _____

Signature Date

_____ _____

Printed or Typed Name Title

This collection of information is required by 37 CFR 3.73(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/351,484	01/27/2003	Neven Dragojlovic	07-DRA-01	3510

7590 04/07/2008

NEVEN DRAGOJLOVIC
9 RUE El FARABI
TANGIE,9000,
MOROCCO

EXAMINER	
BROWN JR, NATHAN H	
ART UNIT	PAPER NUMBER
2129	

MAIL DATE	DELIVERY MODE
04/07/2008	PAPER

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

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

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NEVEN DRAGOJLOVIC
9 RUE EI FARABI
TANGIE,9000 MA MOROCCO

In re Application of:
Neven Dragojlovic
Application No. 10/351,484
Filed: January 27, 2003
For: PARALLEL COMPUTER ARCHITECTURE OF A CELLULAR TYPE, MODIFIABLE AND EXPANDABLE

DECISION ON PETITION UNDER 37 C.F.R. 1.84(a)(2) TO ACCEPT COLOR DRAWINGS

This is a decision on the petition under 37 C.F.R. 1.84(a)(2), filed December 12, 2007 requesting acceptance of color drawings.

The petition requests that the color drawings, although not specifically identified but noted as; figures 1-17 be accepted in lieu of black and white drawings.

A grantable petition under 37 C.F.R. 1.84(a)(2) must be accompanied by a fee set forth under 37 C.F.R. 1.17(h), 3 (three) sets of the color drawings in question, and the specification must contain, or be amended to contain, the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings:

"the file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee."

The petition was filed with the required fee, three (3) sets of color drawings of Figures 1-17 and an amendment to the specification after paragraph [0015], containing the required notification described above.

The petition is **GRANTED**.

The application file is being forwarded to the Publications Branch for issuance of the allowed application.

Kakali Chaki
Quality Assurance Specialist
Technology Center 2100

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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IBM CORP (YA)
C/O YEE & ASSOCIATES PC
P.O. BOX 802333
DALLAS TX 75380

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NOV 23 2007

OFFICE OF PETITIONS

In re Application of :
Jeffrey Mark Achtermann et al :
Application No. 10/351,564 : DECISION ON PETITION
Filed: January 23, 2003 :
Attorney Docket No. :
AUS920020736US1

This is a decision on the petition under 37 CFR 1.137(b), filed April 26, 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 August 25, 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 November 28, 2006 (November 25, 2006, the due date, is a Saturday). A Notice of Abandonment was mailed on May 18, 2007, subsequent to the filing of the present petition to revive.

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 August 25, 2006 is accepted as being unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has

not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

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

This application is being referred to Technology Center AU 2154 for appropriate action in the normal course of business on the reply received April 26, 2007.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

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FEB 11 2008

OFFICE OF PETITIONS

In re Application of
Joerg Friedel, et al.
Application No. 10/351,581
Filed: January 27, 2003
Attorney Docket No. 449122049900

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 31, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Morrison & Foerster, LLP has been revoked by the assignee of the patent application on September 21, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: LERNER GREENBERG STEMER, LLP
PO BOX 2480
HOLLYWOOD, FL 33022-2480

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COMMISSIONER FOR PATENTS
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VOLENTINE & WHITT, PLLC
ONE FREEDOM SQUARE
11951 FREEDOM DRIVE SUITE 1260
RESTON, VA 20190

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JUN 17 2008

OFFICE OF PETITIONS

In re Application of :
Soon-Ki Baek, et. al. :
Application No. 10/351,589 : DECISION ON PETITION
Filed: January 27, 2003 :
Attorney Docket No. SEC.1015 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 12, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

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 March 26, 2004, 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 May 27, 2004. *See* MPEP 1215.04. A Notice of Abandonment was mailed on November 17, 2004.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. *See* MPEP 711.03(c)(II)(C) and (D). 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 3 years) in resuming prosecution, there is a question whether the entire delay was unintentional. Petitioner should note that the issue is not whether some of the delay was unintentional by any

party; rather, the issue is whether the entire delay has been shown to the satisfaction of the Director to be unintentional.

The question under 37 CFR 1.137(b) for period (1) is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unintentional. Accordingly, any renewed petition must clearly identify the party having the right to reply to avoid abandonment on May 27, 2004. That party, in turn must explain what effort(s) was made to further reply to the outstanding Office action and, further, why no reply was filed. If no effort was made to further reply, then that party must explain why the delay in this application does not result from a deliberate course of action (or inaction). Likewise, as Volentine Francos, PLLC were counsel's of record at the time of abandonment, they should explain why this application became abandoned while it was under their control and what efforts were made to reply and with whom this matter was discussed outside of the Law Office. Copies of any correspondence relating to the filing, or to not filing a further reply to the outstanding Office action are required from the responsible person (s) at Volentine Francos, PLLC and whoever else was involved with this application at the time of abandonment. Statements are required from any and all persons at Volentine Francos, PLLC, 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 3 years) could trigger, as here, a request for additional information. As the courts have since made clear, a protracted delay in seeking revival, as here, requires a petitioner's detailed explanation seeking to excuse the delay as opposed to USPTO acceptance of a general allegation of unintentional delay. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633, at 1637-8 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005) at *21-*23. Statements are required from any and all persons then at Volentine Francos, PLLC 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 request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) is permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

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.**

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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11951 FREEDOM DRIVE SUITE 1260
RESTON, VA 20190

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OFFICE OF PETITIONS

In re Application of :
Soon-Ki Baek, et. al. :
Application No. 10/351,589 : DECISION ON PETITION
Filed: January 27, 2003 :
Attorney Docket No. SEC.1015 :

This is a decision on the renewed petition under the 37 CFR 1.137(b), filed November 17, 2008, to revive the above-identified application. The delay in responding is regretted.

In response to the decision mailed June 17, 2008, petitioner submits the present renewed petition along with $1,110 for a three months extension of time on November 17, 2008.

Since the above-identified application has been abandoned for an extended period of time, the Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178; 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office).

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) with the fee of $810 and the submission under 37 CFR 1.114; (2) the petition fee of $1,540; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to Technology Center Art Unit 3723 for appropriate action by the Examiner and for processing of the RCE and amendment filed on October 12, 2007.

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

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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AKIN GUMP STRAUSS HAUER & FELD L.L.P.
ONE COMMERCE SQUARE
2005 MARKET STREET, SUITE 2200
PHILDELPHIA, PA 19103-7013

MAIL

NOV 23 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
Seng-Jun Wei :
Application No. 10/351,590 : DECISION ON REQUEST TO
Filed: January 27, 2003 : WITHDRAW AS ATTORNEY
For: DYNAMIC PHASE TRACKING USING EDGE DETECTION :

This is a decision on the Request to Withdraw as Attorney/Agent of record received July 29, 2004.

A grantable request to withdraw as attorney/agent of record must do the following:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

A revocation of attorney was filed on October 25, 2004 and was accepted by the Office on November 8, 2004.

For the reason stated above the request is **DISMISSED AS MOOT.**

All future communications from the Office will continue to be directed to the address listed above until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

Kenneth Wieder
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4710

cc: Kerry T. Hartman
PILLSBURY WINTHROP LLP
P.O. Box 10500
McLean, VA 22102

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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OCT 1 5 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

PILLSBURY WINTHROP LLP
P.O. Box 10500
McLean, VA 22102

In re Application of:
Jui LIANG, et al.
Application No. 10/351,591
Filed: January 27, 2003
For: DIGITAL FILTER

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed July 29, 2004.

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

The request is **GRANTED**.

Because there was no request for a correspondence address change, all future communications from the U.S. Patent and Trademark Office (Office) ***will continue to be*** addressed to the above-mentioned address until further notice. Applicant is reminded of the obligation to provide the Office with any change of correspondence address to ensure receipt of all correspondence.

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
703-305-9750

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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2040 MAIN ST
FOURTEENTH FLOOR
IRVINE CA 92614

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OFFICE OF PETITIONS

In re Application of :
Coombs, et al. : DECISION ON PETITION
Application No. 10/351,604 :
Filed: January 23, 2003 :
Attorney Docket No. NAGACO.031A :

This is a decision on the petition filed September 10, 2004, pursuant to 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to timely reply to the Notice to File Missing Parts, mailed April 7, 2003. This Notice set a period for reply of two months from the mailing date of the Notice to submit the statutory basic filing fee, late surcharge, and additional claims fees. No fees having been received, the above-identified application became abandoned on June 8, 2003. A Notice of Abandonment was mailed on February 6, 2004.

With the instant petition, petitioner paid the petition fee, made a statement of unintentional delay, and submitted the required fees.

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.

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

The application file is being forwarded to the Office of Initial Patent Examination for pre-examination processing.

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

COMMISSIONER FOR PATENTS
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APR 22 2004

VP
PAPER NO. ___

In re Application of :
Chittibabu et al. :
Serial Number: 10/351,607 : PETITION UNDER
Filed: January 24, 2003 : MPEP 708.02 VI
For: PHOTOVOLTAIC FIBERS :

This is in response to the petition filed July 3, 2003, requesting that the above-identified application be granted Special Status pursuant to 708.02 VI of the MPEP and 37 CFR 1.102(c) (**no fee required**).

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

Accordingly the petition is **GRANTED.**

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

Testa, Hurwitz, & Thibeault, LLP
High Street Tower
125 High Street
Boston, MA 02110

Pet. Dec.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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MAY 18 2004
Mailed: CST

In re application of
Chittibabu et al
Serial No. 10/351,607
Filed: January 24, 2003
For: PHOTOVOLTAIC FIBERS

DECISION ON PETITION

This is a decision on the petition filed June 30, 2003 requesting that the above-identified application be granted Special Status under section 708.02(VI) of the MPEP and 37 CFR 1.102(c) – no fee required.

The request for Special Status is granted because the criteria set forth in MPEP 708.02(VI) and 37 CFR 1.102(c) has been met.

The petition is GRANTED.

Christine Tierney
Special Program Examiner, Technology Center 1700
571-272-1055

TESTA, HURWITZ & THIBEAULT, LLP
High Street Tower
125 High Street
Boston, Massachusetts 02110

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P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

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OFFICE OF PETITIONS

In re Patent No. 6,913,713 :
Issue Date: July 05, 2005 :
Application No. 10/351,607 : NOTICE
Filed: January 24, 2003 :
Attorney Docket No. **15626-059001/KON-002** :

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 **NOT ACCEPTED**.

The fee deficiency cannot be accepted because no itemization has been submitted, as required by 37 CFR 1.28(C) (ii) which states:

(2) Payment of deficiency owed. The deficiency owed, resulting from the previous erroneous payment of small entity fees, must be paid.

(ii) *Itemization of the deficiency payment.* An itemization of the total deficiency payment is required. The itemization must include the following information:

(A) Each particular type of fee that was erroneously paid as a small entity, (e.g., basic statutory filing fee, two-month extension of time fee) along with the current fee amount for non-small entity;

(B) The small entity fee actually paid, and when. This will permit the Office to differentiate, for example, between two one-month extension of time fees erroneously paid as a small entity but on different dates;

(C) The deficiency owed amount (for each fee erroneously paid); and

(D) The total deficiency payment owed, which is the sum or total of the individual deficiency owed amounts set forth in paragraph (c)(2)(ii)(C) of this section.

Inquiries related to this communication should be directed to Tredelle Jackson at (571) 272-2783.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

Attorney's Docket No.: 15626-0059001 / KON-002

2009 MAR -2 PM 4:06

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Chittababu et al.
Serial No. : 10/351,607
Filed : January 24, 2003
Patent No. : 6,913,713
Issue Date : July 5, 2005
Title : PHOTOVOLTAIC FIBERS

Art Unit : 1751
Examiner : Kallambella M. Vijayakumar
Conf. No. : 3584

RECEIVED
MAR 10 2009
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BOX MFEE
Director of the United States Patent and Trademark Office
Attn: Maintenance Fee
2051 Jamieson Avenue, Suite 300
Alexandria, Virginia 22314

SUPPLEMENTAL PAYMENT OF PATENT MAINTENANCE FEE UNDER 37CFR 1.28 (C)

On or around January 5, 2009 a maintenance fee was paid for this patent for the after grant period of 3.5 years, for which the fee is $490 [37 CFR §1.20(e)].

Through an inadvertant error the Office was not notified of a change in entity status from small entity to large entity.

The deficiency due is based on the amount of the fee, for other than a small entity in effect at the time the deficiency is paid in full [37 CFR §1.20(c)]. This deficiency is $980-490 = $490 . A surcharge in the amount of $130 is also included

Enclosed is a check for the total fees of $ 620. Please apply any other charges or credits to Deposit Account No. 06-1050.

03/05/2009 DALLEN 00000042 6913713
01 FC:1559 620.00 OP

CERTIFICATE OF MAILING BY FIRST CLASS MAIL

I hereby certify under 37 CFR §1.8(a) that this correspondence is being deposited with the United States Postal Service as first class mail with sufficient postage on the date indicated below and is addressed to the United States Patent & Trademark Office, P.O. Box 371611, Pittsburgh, PA 15250-1611.

February 27, 2009
Date of Deposit

Signature

G P. HEHIR
Typed or Printed Name of Person Signing Certificate

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MINNEAPOLIS MN 55440-1022

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FEB 16 2010

In re Application of :
Kethinni CHITTIBABU et al. :
Application No. 10/351,607 : NOTICE
Patent No. 6,913,713 :
Filed: January 24, 2003 :
Attorney Docket No. **15626-059001/KON-002**

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 Tredelle Jackson at (571) 272-2783.

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

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NOV 03 2003

Director's Office
Group 3700

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

Paper No. 7

In re Application of
SUZUKI ET AL.
Application No.: 10/351,613
Filed: January 27, 2003

: **DECISION ON**
: **PETITION TO**
: **MAKE SPECIAL**
:

This is a decision on the petition filed July 25, 2003 to make special under 37 CFR 1.102(c).

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

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

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

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APR 13 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

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

In re application of : **DECISION ON PETITION**
Roland D. Tai : **TO MAKE SPECIAL**
Application No. 10/351,615 : **(ACCELERATED**
Filed: January 24, 2003 : **EXAMINATION)**
For: PROMOTION PROCESSOR AND MANAGEMENT SYSTEM

This is in response to the petition filed January 24, 2003, and the supplemental thereto filed December 9, 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 requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

Since all of the requirements for special status under MPEP § 708.02 VIII have been met, the petition is **GRANTED**.

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

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

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

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

KJD/mjz: 4/6/04

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

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OFFICE OF PETITIONS

In re Application of :
Elliot, et al. : DECISION ON PETITION
Application No. 10/351,625 :
Filed: January 24, 2003 :
Dkt. No.: BBNT-P01-184 :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed November 30, 2007.

The Notice of Abandonment, mailed November 6, 2007, states the application is abandoned for failure to timely submit a proper reply to the non-final Office action mailed April 23, 2007. The non-final Office action set a three month shortened statutory period of time for reply.

Petitioners assert that a response to the non-final Office action and a petition for three month extension of time were timely filed October 23, 2007.

The original responses referenced by petitioners have been located in the application file and were received October 26, 2007. The responses bear certificate of mailing dates of October 23, 2007 in accordance with 37 CFR 1.8.

In view of the evidence thereof, the petition to withdraw the holding of abandonment is hereby **GRANTED**.

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

The application file 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 10/351631

DATE : 1/11/05

TO SPE OF : ART UNIT 2826

SUBJECT : Request for Certificate of Correction on Patent No.: 6,812,484

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:

SUE PURVIS — **SPE**

2826 — **Art Unit**

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SEP 7 2004

In re Application of ROTHAMEL, KARL
Appl. No.: 10/351,654
Filed: January 24, 2003
For: APPARATUS AND METHOD FOR MEASURING OF ANY UNBALANCE OF A MOTORCYCLE WHEEL

DECISION ON PETITION
37 CFR 1.48(a)

In view of the papers filed November 10, 2003, 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 the addition of Josef Drechsler as joint inventors.

Hezron E. Williams
Supervisory Patent Examiner, AU 2856
Patent Examining Technology Center 2800

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

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MORGAN, LEWIS & BOCKIUS LLP
1701 MARKET STREET
PHILADELPHIA, PA 19103-2921

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OCT 0 4 2006

OFFICE OF PETITIONS

In re Application of :
Anuar Yaakub, et al :
Application No. 10/351,661 : DECISION GRANTING PETITION
Filed: January 27, 2003 : UNDER 37 CFR 1.137(b)
Attorney Docket No. EL-8186 US :

This is a decision on the petition under 37 CFR 1.137(b), filed January 3, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed March 29, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on June 30, 2005. A Notice of Abandonment was mailed on November 17, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply (an amendment) to the non-final Office action of March 29, 2005, (2) the $1,500 petition fee, and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of March 29, 2005 is accepted as having been unintentionally delayed.

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

This matter is being referred to Technology Center AU 1714 for appropriate action in the normal course of business on the reply received January 3, 2006.

Frances Hicks
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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RISSMAN JOBSE HENDRICKS & OLIVERIO, LLP
ONE STATE STREET
SUITE 800
BOSTON MA 02109

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SEP 27 2007

OFFICE OF PETITIONS

In re Application of :
Larsen :
Application No. 10/351,671 : DECISION ON PETITION
Filed: January 24, 2003 :
Attorney Docket No. 18086 USA // :
G0003/7267

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 23, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely file a proper reply within the meaning of 37 CFR 1.113 to the final Office action of November 9, 2006. Petitioner obtained a one month extensions of time pursuant to the provisions of 37 CFR 1.136(a) and submitted an amendment after final on March 8, 2007. The amendment after final failed to place this application in *prima facie* condition for allowance, as was explained in the April 9, 2007 Advisory action. Accordingly, the date of abandonment of this application is March 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 Notice of Appeal – it is noted that an Appeal Brief was timely filed on July 23, 2007; (2) the petition fee of $1,500.00; and (3) a proper statement of unintentional delay.

Pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the $1,020.00 extension of time submitted with the petition on May 23, 2007 was submitted subsequent to the maximum period obtainable for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

This application is being referred to Technology Center AU 1772 for consideration of the Appeal Brief filed on July 23, 2007.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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LAURENCE P. COLTON
1201 WEST PEACHTREE STREET, NW
14TH FLOOR
ATLANTA, GA 30309-3488

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SEP 21 2006
OFFICE OF PETITIONS

In re Application of :
Robert C. Dalton :
Application No. 10/351,685 : ON PETITION
Filed: January 27, 2003 :
Attorney Docket No. 14695.014US :

This is a decision on the petition under 37 CFR 1.137(b), filed on June 30, 2006, to revive the above-identified application.

The application became abandoned for failure to timely respond to the Notice of Allowance and Fee(s) Due mailed January 12, 2006. A Notice of Abandonment was mailed on June 28, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of $700 for payment of the issue fee and $300 for payment of the publication fee; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

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

This application file is being referred to the Office of Publications to be processed into a patent.

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

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Laurence P. Colton
P.O. Box 567685
Atlanta, GA 31156-7685

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Mark G. Bocchetti
Patent Legal Staff
Eastman Kodak Company
343 State Street
Rochester, NY 14650-2201

In re Application of :
Phinney et al. :
Application No. 10/351,698 :
Filed: January 27, 2003 :
Attorney Docket No. :
85569NAB :

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OFFICE OF PETITIONS

This is a decision on the petition filed August 31, 2005, pursuant to 37 C.F.R. §3.81(b), to request a change in the name of the assignee after payment of the issue fee. The petition is properly treated as a request under 37 CFR 3.81(b)[1]. The delay in treating this petition is regretted.

The Petition is **granted**.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

The application is being referred to the Certificate of Corrections Branch for issuance of the requested Certificate of Correction.

Derek L. Woods
Attorney
Office of Petitions

[1] See, 1283 OG 148 22 June 2004, 69 Fed. Reg. 29865 26 May 2004

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JJGJR.: 06-06

Paper No: __

MARSH FISCHMANN
& BREYFOGLE LLP
3151 SOUTH VAUGHN WAY, SUITE 411
AURORA CO 80014

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JUL 10 2006

OFFICE OF PETITIONS

In re Application of :
Schneider, et al. :
Application No.: 10/351,699 :
Filing Date: 27 January, 2003 :
Attorney Docket No. 45568-00427 :

DECISION

This is a decision on the petition filed on 26 January, 2005, and styled improvidently as a "Request for Reinstatement," and resubmitted again under that nomenclature on 21 April, 2006, and considered as a request to withdraw the holding of abandonment under 37 C.F.R. §1.181.

NOTE:

It appears that, since the filing of the original petition, Petitioner inquired only once in approximately 18 months as to the Status of the instant matter, and Petitioner is reminded that the filing of such inquiries at a minimum of three- (3-) month intervals may provide a showing of diligence should the extended delay be questioned (for example, as required under 37 C.F.R. §1.181).

For the reasons set forth below the petition as considered under 37 C.F.R. §1.181 is **GRANTED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the non-final Office action mailed on 15 March, 2004, with reply due absent extension of time on or before 15 June, 2004;

- the instant application went abandoned after midnight 15 June, 2004;

- the Office mailed the Notice of Abandonment on 29 December, 2004;

- on 26 January, 2005, and then again on 21 April, 2006, Petitioner filed the instant petition, improvidently styling it as a "Request for Reinstatement," but apparently seeking withdrawal of the holding of abandonment, and averred timely filing of a reply in the form of an amendment, with a copy of a receipt card (see: MPEP §503[1]) evidencing Office receipt that is date stamped with what appears to be a "JUL 19 2004" OIPE date stamp, however, the copy is somewhat unclear, and the receipt card lists an amendment, request and fee for extension of time within which to file; and with the later submission Petitioner provided what is averred to be a copy of the reply and request for extension of time submitted;

---

[1] MPEP §503 provides in pertinent part:

§503 Application Number and Filing Receipt

* * *

A return postcard should be attached to *each* patent application for which a receipt is desired. It is important that the return postcard itemize all of the components of the application. If the postcard does not itemize each of the components of the application, it will not serve as evidence that any component which was not itemized was received by the United States Patent and Trademark Office (USPTO). It should be recognized that the identification of an application by application number does not necessarily signify that the USPTO has accepted the application as complete (37 C.F.R. §1.53(a)).

* * *

RETURN POSTCARD

If a receipt of any item (e.g., paper or fee) filed in the USPTO is desired, it may be obtained by enclosing with the paper a self-addressed postcard specifically identifying the item. The USPTO will stamp the receipt date on the postcard and place it in the outgoing mail. A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

The identifying data on the postcard should be so complete as to clearly identify the item for which receipt is requested. For example, the postcard should identify the applicant's name, application number (if known), confirmation number (if known), filing date, interference number, title of the invention, etc. The postcard should also identify the type of paper being filed, e.g., new application, affidavit, amendment, notice of appeal, appeal brief, drawings, fees, motions, supplemental oath or declaration, petition, etc., and the number of pages being submitted. If a new application is being filed, all parts of the application being submitted should be separately listed on the postcard, e.g., the number of pages of specification (including written description, claims and abstract), number of claims, number of sheets of drawings, number of pages of oath/declaration, number of pages of cover sheet (provisional application).

The postcard receipt will not serve as *prima facie* evidence of receipt of any item which is not adequately itemized on the postcard. For example, merely listing on the postcard "a complete application" or "patent application" will not serve as a proper receipt for each of the required components of an application (e.g., specification (including claims), drawings (if necessary), oath or declaration and the application filing fee) or missing portions (e.g., pages, sheets of drawings) of an application if one of the components or portion of a component is found to be missing by the USPTO. Each separate component should be specifically and properly itemized on the postcard. Furthermore, merely incorporating by reference in the postcard receipt, the items listed in a transmittal letter will not serve as *prima facie* evidence of receipt of those items.

The person receiving the item(s) in the USPTO will check the listing on the postcard against the item(s) being filed to be sure they are properly identified and that all the items listed on the postcard are presently being submitted to the USPTO. If any of the items listed on the postcard are not being submitted to the USPTO, those items will be crossed off and the post-card initialed by the person receiving the items. Upon return of a postcard receipt from the USPTO, the postcard receipt should be promptly reviewed by the person who filed the items to ensure that every item specifically denoted on the postcard was received by the USPTO. If the postcard receipt has been annotated to indicate that a particular item denoted on the postcard was not received by the USPTO, the postcard receipt will not serve as *prima facie* evidence of receipt of that item in the USPTO. (Emphasis supplied.)

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

---

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

Specifically, the regulations at 37 C.F.R. §10.18 provide:

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—

(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and

(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —

(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;

(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.

(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, 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]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[3]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[4]

Delays in responding properly raise the question whether delays are unavoidable.[5] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[6] And the Petitioner must be diligent in attending to the matter.[7] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[8]))

Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal

---

[3] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

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

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

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

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

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

of a holding of abandonment.[9]

The commentary at MPEP §711.03(c) provides:

* * *

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

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

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

Where a certificate of mailing under 37 C.F.R. §1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 C.F.R. §1.8(b) and MPEP § 512. As stated in 37 C.F.R §1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous

---

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

> timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 C.F.R. §1.8).
>
> 37 C.F.R. §1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 C.F.R. 1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP § 512.
>
> * * *

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

As of this writing Petitioner appears to have satisfied the requirements described above.

CONCLUSION

Because Petitioner has satisfied the burdens set forth in Delgar v. Schulyer, the petition as considered under 37 C.F.R. §1.181 is **granted**.

The instant application is released to the Examiner in Technology Center 3700 for further processing in due course.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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FISH & NEAVE IP GROUP
ROPES & GRAY LLP
1251 AVENUE OF THE AMERICAS FL C3
NEW YORK NY 10020-1105

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APR 07 2005

OFFICE OF PETITIONS

In re Application of :
David M. Armistead, et al. :
Application No. 10/351,731 : DECISION GRANTING PETITION
Filed: January 23, 2003 :
Atty Docket No. VPI/96-02 CIP2 DIV2 :

This is a decision on the petition filed February 23, 2005, requesting that the above-identified application be accorded a filing date of January 23, 2003, instead of the presently accorded date of January 24, 2003.

Petitioner alleges that the application was deposited in "Express Mail" Service with the U. S. Postal Service (USPS) on January 23, 2003. In support, petitioner provides, *inter alia*, a copy of the "Express Mail" mailing label receipt No. EI 125455907 US. The same Express Mail receipt number was referred to in the original application transmittal letter found in the file.

The Office considers the date the paper or fee is shown to have been deposited as "Express Mail" to be the "Date In" on the Express Mail label, MPEP 513. That is the date that verifies that the package was actually mailed. The evidence is convincing that the application was deposited as "Express Mail" with the USPS on January 23, 2003.

The petition is granted.

The application is being referred to the Office of Initial Patent Examination (OIPE) for correction of the filing date to **January 23, 2003.**

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to OIPE processing should be directed to their hotline at (703) 308-1202.

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

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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BROOKS KUSHMAN P.C.
1000 TOWN CENTER
TWENTY-SECOND FLOOR
SOUTHFIELD MI 48075

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JUN 05 2008

OFFICE OF PETITIONS

In re Application of :
Dantz et al. :
Application No. 10/351,739 : DECISION ON PETITION
Filed: January 27, 2003 :
Attorney Docket No. WSAG 0133 PUS :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 28, 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 continuing application, (2) the petition fee, and (3) a proper statement of unintentional delay.

The above-identified application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the above-identified application, the above-identified application is again abandoned in favor of continuing application No. 12/036,351.

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

Liana Walsh
Petitions Examiner
Office of Petitions

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P.O. BOX 1450
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Paper No. 4

PENNIE AND EDMONDS
1155 AVENUE OF THE AMERICAS
NEW YORK NY 10036-2711

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AUG 1 3 2003

OFFICE OF PETITIONS

In re Application of
Winter
Application No. 10/351,748
Filed: January 24, 2003
Attorney Docket No. 7806-011

ON PETITION

This is a decision on the petition under 37 CFR 1.182, filed June 11, 2003, requesting that Figure 8, omitted from the initial filing on January 24, 2003, be included in the specification of the above-identified application and that the application be accorded a filing date of January 24, 2003.

The application was filed on January 24, 2003. However, on April 11, 2003, The Office of Initial Patent Examination mailed a "Notice to File Missing Parts of Nonprovisional Application" (Notice) stating, *inter alia*, that the application had been accorded a filing date of January 24, 2003, and advising applicant that figure 8 appeared to have been omitted.

In response, the present petition was filed. Petitioner argues that the drawing should be included in the disclosure filed on January 24, 2003, because (1) Figure 8 does not constitute new matter and (2) Figure 8 was originally filed in prior application No. 08/452,462, the entire disclosure of which was incorporated by reference at the time of filing.

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

The mailing of the Notice permitted applicant to either: (1) promptly establish prior receipt in the PTO of the items at issue (generally by way of a date-stamped postcard receipt (MPEP 503)), or (2) promptly submit the omitted items in a nonprovisional application and accept the date of such submission as the application filing date. An applicant asserting that the missing items were in fact deposited in the PTO with the application papers must file a petition (and the appropriate petition fee) with evidence of such deposit. An applicant desiring to submit the omitted items in a nonprovisional application and accept the date of such submission as the application filing date must file any omitted items with an oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such items and a petition under 37 CFR 1.182 (with the petition fee under 37 CFR 1.17(h)) requesting the later filing date within two months of the date of the Notice (37 CFR 1.181(f)).

In this case, petitioner neither asserts that the missing drawing was actually deposited in the PTO on January 24, 2003 with the other application papers nor requests a later filing date.

Instead, applicant seeks to add the figure to the present application on the basis that the figure is not new matter. However, no petition is necessary for that purpose. Additional figures may be entered by the primary examiner without a petition so long as the pages contain no new matter. See MPEP § 608.02(a).

MPEP 201.06(c) states that:

> . . . an applicant may incorporate by reference the prior application by including, in the application-as-filed, a statement that such specifically enumerated prior application or applications are "hereby incorporated herein by reference." The statement may appear in the specification or in the application transmittal letter. The inclusion of this incorporation by reference of the prior application(s) will permit an applicant to amend the continuing application to include any subject matter in such prior application(s), without the need for a petition. (emphasis supplied)

If applicant desires that figure 8 be added to the application, the appropriate procedure is by way of amendment requesting the entry of the figure. Any such amendment should be filed prior to the first action on the merits and will be considered by the primary examiner.

Accordingly, the petition is inappropriate and is subject to dismissal.

The petition fee will not be refunded, since the petition was not necessitated by any error on the part of the Office.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of January 24, 2003. Figure 8 will not be processed at this time.

Thereafter, the application will be forwarded to Technology Center 1600 for examination in due course.

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

E. Shirene Willis

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

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SEP 20 2004

PALMER & DODGE, LLP
KATHLEEN M. WILLIAMS
111 HUNTINGTON AVENUE
BOSTON MA 02199

In re Application of	:
Gregory P. Winter	:
Serial No.: 10/351,748	: PETITION TO MAKE SPECIAL
Filed: January 24, 2003	:
Attorney Docket No.: 6829	:

This is in response to the petition filed June 25, 2004, to make the above-identified application special under the provisions of 37 CFR 1.102(d) based on infringement.

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, II, relating to actual or potential infringement. Therefor the petition is **GRANTED**.

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

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission to the Office general facsimile number 703-872-9306.

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

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Paper No. 6

MYERS & KAPLAN, INTELLECTUAL PROPERTY LAW, L.L.C.
1899 POWERS FERRY ROAD
SUITE 310
ATLANTA, GA 30339

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DEC 15 2003

OFFICE OF PETITIONS

In re Application of	:	
Reeves et al.	:	DECISION REFUSING
Application No. 10/351,756	:	STATUS UNDER
Filed: January 27, 2003	:	37 CFR 1.47(a)
Attorney Docket No. 21170-RA	:	
For: EVAPORATIVE COOLING SYSTEM	:	

This is a decision on the petition under 37 CFR 1.47(a), filed May 13, 2003.

The petition is **DISMISSED**.

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

The petition refers to an attached declaration discussing the efforts to find and speak with Mr. Reeves. Unfortunately, a copy of the declaration cannot be found in the file. The Office requests petitioner resubmit a copy of the declaration.

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

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

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

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

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

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

Myers & Kaplan, Intellectual Property Law, LLC
1899 Powers Ferry Road
Suite 310
Atlanta, GA 30339

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JAN 23 2004

OFFICE OF PETITIONS

In re Application of Reeves et al. :
Application No. 10/351,756 : DECISION ACCORDING
Filed: January 27, 2003 : STATUS UNDER
Attorney Docket No. 21170-RA : 37 CFR 1.47(a)
For: Evaporative Cooling System :

This is a decision on the renewed petition under 37 CFR 1.47(a), filed January 7, 2004.

The petition is **granted**.

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

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. 9

Shawn Edwards
171 Woodland Circle
Calhoun, GA 30701

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JAN 23 2004

OFFICE OF PETITIONS

In re Application of Reeves et al. :
Application No. 10/351,756 :
Filed: January 27, 2003 : Letter
Attorney Docket No. 21170-RA :
For: Evaporative Cooling System :

Dear Mr. Shawn Edwards:

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: Myers & Kaplan, Intellectual Property Law, LLC
1899 Powers Ferry Road
Suite 310
Atlanta, GA 30339

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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JUL 1 8 2005

OFFICE OF PETITIONS

QUARLES & BRADY LLP
411 E. WISCONSIN AVENUE, SUITE 2040
MILWAUKEE WI 53202-4497

In re Application of
Craig T. January
Application No. 10/351,758
Filed: January 27, 2003
Attorney Docket No.: 960296.98474
Title: METHOD OF CORRECTING HERG CHANNEL DYSFUNCTION

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 March 22, 2005, to revive the above-identified application. The above-identified application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed December 14, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time are permitted for transmitting issue fees or publication fees[2]. Accordingly, the above-identified application became abandoned on March 15, 2005.

With the petition, Petitioner has submitted the proper statement of unintentional delay, along with the petition, issue, and publication fees.

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

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

2 See MPEP §710.02(e).

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

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AUG 15 2003

UR
PAPER NO. 7

In re Application of	:	
Stephen Y. Chou	:	DECISION
Serial No. 10/351,770	:	ON
Filed: January 27, 2003	:	PETITION
For: LITHOGRAPHIC APPARATUS FOR MOLDING ULTRAFINE FEATURES	:	UNDER 708.02,VIII

This is in response to the petition filed June 18, 2003 requesting that the above-identified application be granted Special Status under Section 708.02 (VIII) of the MPEP and 37 CFR 1.102(d) (fee authorized).

The petition has been considered and found to comply with the requirements set forth under the above-noted section. Accordingly, the petition is **GRANTED.**

JMStone

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Lowenstein Sandler PC
65 Livingston Avenue
Roseland, NJ 07068

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QUARLES & BRADY LLP
411 E. WISCONSIN AVENUE
SUITE 2040
MILWAUKEE WI 53202-4497

OCT 19 2007

In re Application of
Joseph F. Podusko al
Serial No.: 10/351,777
Filed: January 27, 2003
Attorney Docket No.: 630666.91136

: PETITION DECISION

This is a decision on the PETITION FOR ACCEPTANCE OF COLOR DRAWINGS UNDER 37 CFR 1.84(a)(2). The petition was filed April 3, 2007. Entry of color drawings requires: 1) three sets of the color drawings, 2) a proper amendment to the specification indicating color photographs or drawings are present in the file, and 3) the required fee under 37 CFR 1.17(h).

A review of the application record indicates that the petition meets all of the requirements for acceptance of color drawings. This is not to be construed that all of the drawings are accepted, only that the color drawings are acceptable.

The petition is **GRANTED**.

Should there be any questions with respect to this decision, please contact William R. Dixon, Jr., by mail addressed to: Director, Technology Center 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile transmission at 571-273-8300.

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

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DFW Nov-06

McGUINNESS & MANARAS LLP
125 NAGOG PARK
ACTON MA 01720

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NOV 21 2006

OFFICE OF PETITIONS

In re Application of	:	
Andersson et al.	:	DECISION ON PETITION TO
Application No. 10/351,780	:	WITHDRAW HOLDING OF
Filed: 27 January, 2003	:	ABANDONMENT
Atty. Docket No. 120-057	:	

This is a decision on the petition filed on 13 September, 2006, to withdraw the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

The application was held abandoned for failure to timely respond to the Office action requiring restriction and/or election mailed on 14 September, 2005. Notice of Abandonment was mailed on 5 September, 2006.

Petitioners assert that the Office action mailed on 14 September, 2005, was not received because it was mailed to the wrong address due to USPTO error. Specifically, petitioners assert that a Revocation of Power of Attorney and Change of Correspondence Address was filed on 24 November, 2004, but was never entered. Consequently, the Office action mailed on 14 September, 2005, was mailed to an old address and was returned to the USPTO as undeliverable.

A review of Office records reveals that on 24 November, 2004, a revocation and power of attorney was filed by the assignee, designating Customer No. 34845, but was not entered by the USPTO. Subsequently, on 14 September, 2005, an Office action was mailed to the prior address of record. The Office action was returned as undeliverable on 3 October, 2005.

As such, the showing of record is that there was an irregularity in the mailing of the Office action mailed on 14 September, 2005, in that said Office action was not mailed to the proper address. Therefore, there is no abandonment in fact.

The Office apologizes for any inconvenience to petitioner.

Accordingly, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

As petitioners filed a response on 8 June, 2006, to the Office action requiring restriction or election, remailing of the Office action is unnecessary. Rather, the response filed on 8 June, 2006, is being treated as timely filed.

The application is being referred to Technology Center Art Unit 2616 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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ALEXANDRIA, VA 22313-1450
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Paper No. 4

DUNLAP, CODDING & ROGERS P.C.
PO BOX 16370
OKLAHOMA CITY, OK 73114

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MAY 0 8 2003

OFFICE OF PETITIONS

In re Application of :
Fox et al. :
Application No. 10/351,856 : DECISION ON
Filed: January 25, 2003 : PETITION
Attorney Docket No. 5671.043 :

This is a decision on the petition filed April 21, 2003, requesting that the above-identified application be accorded a filing date of January 24, 2003, instead of the presently accorded filing date of January 25, 2003.

Petitioners request the earlier filing date on the basis that the application was purportedly deposited in Express Mail service on January 24, 2003, pursuant to the requirements of 37 CFR 1.10. In support, petitioners supplied a copy of Express Mail label EV262273265US which bears a "date in" of January 25, 2003. The petition is also accompanied by a copy of the Utility Patent Application Transmittal form with the above-mentioned Express Mail number.

Paragraph (a) of 37 CFR 1.10 states that:

> Any correspondence received by the Patent and Trademark Office (Office) that was delivered by the "Express Mail Post Office to Addressee" service of the United States Postal Service (USPS) will be considered filed in the Office on the date of deposit with the USPS. The date of deposit with the USPS is shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation. If the USPS deposit date cannot be determined, the correspondence will be accorded the Office receipt date as the filing date.[1] (emphasis added)

Paragraph (d) of 37 CFR 1.10 states that:

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or

[1] See 37 CFR 1.6(a).

other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:
(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;
(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and
(3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS. Any statement submitted in support of such a showing pursuant to this paragraph must be a verified statement if made by a person other than an employee of the USPS or a practitioner as defined in § 10.1(r) of this chapter.

A review of the copy of the Express Mail receipt EV262273265US indicates a "date in" of January 25, 2003, the Official U. S. Postal Stamp shows the date received as January 24, 2003. The Official Stamp in conjunction with the U.S. Postal Service's tracking system will be used to corroborate petitioner's claim of deposit prior to January 25, 2003.

In view thereof, the petition is GRANTED.

The application is being forwarded to the Office of Initial Patent Examination (OIPE) for **correction of the filing date to January 24, 2003.**

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

Telephone inquiries may be directed to the undersigned at (703) 306-0251.

Charlema R. Grant
Petitions Attorney
Office of Petitions

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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KUDIRKA & JOBSE, LLP
ONE STATE STREET
SUITE 1510
BOSTON MA 02109

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AUG 2 9 2003

OFFICE OF PETITIONS

In re Application of
Gruen, et al.
Application No. 10/351,862
Filed: January 27, 2003
Attorney Docket No. L0T9-2002-0004US4
For: METHOD AND APPARATUS FOR ELECTRONIC MAIL INTERACTION WITH GROUPED MESSAGE TYPES

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.182 filed June 2, 2003 (certificate of mailing date May 27, 2003), to change the order of inventorship.

The petition is GRANTED.

A replacement filing receipt is enclosed.

There is no indication that petitioner herein was ever empowered to prosecute the instant application. If petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision will be mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

After the mailing of this decision, the application file will be forwarded to Technology Center 2100 for examination in due course.

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

enclosure: replacement filing receipt

cc: STEPHEN T. KEOHANE
IBM CORPORATION - LOTUS SOFTWARE
ONE ROGERS STREET
CAMBRIDGE MA 02142

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

PAPER NO. 6

Allen L. Limberg
1053 Kensington Street
Port Charlotte, FL 33952

MAIL

OCT 27 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
Limberg :
Serial No: 10/351886 : DECISION ON PETITION
Filed: January 27, 2003 :
Title: PAM RADIO SIGNAL RECEIVER WITH PHASE-TRACKER SUCCEEDING ADAPTIVE FIR FILTERING AND PRECEDING ADAPTIVE IIR FILTERING

This is a decision on the petition under 37 C.F.R § 1.102, filed June 1, 2004, to make the above-identified application special.

Petitioner requests that the above-identified application be made special under the accelerated examination procedure set forth in M.P.E.P. § 708.02, Section IV: Applicant's Age.

A grantable petition under 37 C.F.R § 1.102, and in accordance with M.P.E.P. § 708.02, IV must include a showing, as by a birth certificate or the applicant's statement, that the applicant is sixty five (65) years of age or more. No fee is required for this petition.

The petition includes a verified statement by applicant stating that he/she is sixty five (65) years of age or more.

Accordingly, the petition is GRANTED.

The application is being forwarded to the examiner for expedited prosecution.

Kenneth Wieder, SPRE
Technology Center 2600
Communications

OIPE
APR 11 2005
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	10/351,892
	Filing Date	January 23, 2003
	First Named Inventor	William GREENBERG
	Art Unit	1652
	Examiner Name	Y. Pak
	Attorney Docket Number	564462007500

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

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

- [ ] all the attorneys/agents of record.
- [ ] the attorneys/agents (with registration numbers) listed on the attached paper(s), or
- [x] the attorneys/agents associated with Customer Number 45975

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.

APPROVED

The reasons for this request are:

This withdrawal is being made at the request of the applicant.

WILLIAM R. DIXON, JR.
SPECIAL PROGRAM EXAMINER
4/25/05

CORRESPONDENCE ADDRESS

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

[ ] The address associated with Customer Number:

OR

[x] Firm or Individual Name	Lynn M. Linkowski Diversa Corporation				
Address	4955 Directors Place				
City	San Diego	State	CA	Zip	92121
Country	United States				
Telephone	(858) 526-5450			Fax	(858) 526-5950
Signature	Brenda J. Wallach				
Name	Brenda J. Wallach			Registration No.	45,193
Date	April 7, 2005			Telephone No.	(858) 720-7961

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.

sd-253671

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5-12-06

TO SPE OF : ART UNIT 2873

SUBJECT : Request for Certificate of Correction for Appl. No.: 10351901 Patent No.: 6943965

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**.

V Jackson

Certificates of Correction Branch

703-308-9390 ext. 114

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

RICKY MACK

SUPERVISORY PATENT EXAMINER

SPE

2873

Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MARSHALL, GERSTEIN & BORUN LLP (MICROSOFT)
233 SOUTH WACKER DRIVE
6300 WILLIS TOWER
CHICAGO, IL 60606

Mail Date: 04/21/2010

Applicant	: Todd R. Manion	: DECISION ON REQUEST FOR
Patent Number	: 7596625	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/351,905	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/27/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1262** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MARSHALL, GERSTEIN & BORUN LLP (MICROSOFT)
233 SOUTH WACKER DRIVE
6300 WILLIS TOWER
CHICAGO, IL 60606

Mail Date: 05/18/2010

Applicant : Todd R. Manion
Patent Number : 7596625
Issue Date : 09/29/2009
Application No: 10/351,905
Filed : 01/27/2003

: 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 **1357** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

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

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 3

FOLEY & LARDNER
321 NORTH CLARK STREET
SUITE 2800
CHICAGO, IL 60610-4764

COPY MAILED

JUL 0 8 2003

OFFICE OF PETITIONS

In re Application of :
J. Peter Steidlmayer :
Application No. 10/351,949 : NOTICE
Filed: January 27, 2003 :
Attorney Docket No. 025191/0101 :

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 3628.

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

cc: FOLEY & LARDNER
330 NORTH CLARK STREET
SUITE 2800
CHICAGO, IL 60610-4764

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 & LARDNER LLP
321 NORTH CLARK STREET
SUITE 2800
CHICAGO IL 60654-5313

MAILED

APR 29 2009

OFFICE OF PETITIONS

In re Application of :
J. Peter Steidlmayer :
Application No. 10/351,949 :
Filed: January 27, 2003 :
Attorney Docket No. 025191-0101 :

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 10, 2009.

The request is **APPROVED**.

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

The request was signed by Hector A. Agdeppa on behalf of all attorneys of record who are associated with customer No. 27433.

All attorneys/agents associated with the Customer Number 27433 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record remains unchanged.

There is a Notice of Non-Responsive Amendment mailed January 7, 2009 that requires a reply.

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

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PATTERSON, THUENTE, SKAAR & CHRISTENSEN, P.A.
4800 IDS CENTER
80 SOUTH 8TH STREET
MINNEAPOLIS MN 55402-2100

MAILED

NOV 06 2009

OFFICE OF PETITIONS

In re Application of :
Brunner et al. :
Application No. 10/351,963 :
Filed: January 27, 2003 : LETTER REGARDING
Attorney Docket No. 3081.21US01 : PATENT TERM ADJUSTMENT
Title: Steremicroscope With :
Coupling Unit To Swivel :
Objective Upon Sensing Movement :
of Eyepiece

This is in response to the "SUMMARY", filed June 10, 2009. Pursuant to their duty of candor and good faith to the Office, patentees disclose that the Determination of Patent Term Adjustment under 35 U.S.C. § 154(b) may be less than 289 days.

The merits of the request for reconsideration of the patent term adjustment have not been reviewed because the paper submitted does not contain a signature as required 37 CFR 1.33(b). As such the request for reconsideration is **Dismissed**.

The Office thanks patentees for their good faith and candor in bringing this to the attention of the Office. However, any future disclosure that the determination of Patent Term Adjustment may be less than 289 must be signed.

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this matter should be directed to the Petitions Attorney Charlema Grant at (571) 272-3215.

/Kery Fries/

Kery Fries
Senior Legal Advisor Attorney
Office of Patent Legal Administration

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

OCT 17 2005

Director's Office
Group 3700

KUO-HSIUNG CHIU
13F., NO.23, JIUN-HO STREET, PEITUN DISTRICT
TAICHUNG, TAIWAN 406

In re Patent Application of
WANG ET AL.
Appl. No.: 10/351,988
Filed: January 28, 2003

DECISION DISMISSING PETITION
37 CFR 1.181

This application is before the Director of Technology Center 3700 for reconsideration of the Notice of Abandonment mailed December 7, 2004. In view of the statements in the letter of January 17, 2005, the submission is being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment in the above-identified application. No fee is required.

The petition is dismissed. The application remains abandoned.

The records of the Office indicate that an Office action was mailed to applicant at the address of record on April 23, 2004. There is a strong presumption that mail properly addressed and delivered to the United States Postal Service is in fact delivered to the addressee. An allegation that an Office action was not received may be considered in a formal petition for the withdrawal of the holding of abandonment, in accordance with Delgar Inc. v. Schuyler, 172 USPQ 513. This presumption that the Office action was delivered to applicant may be overcome by a showing that the action was not, in fact, received. As part of the showing, applicant must submit (1) a statement by him, and/or by anyone else at applicant's correspondence address that would have handled the Office action, stating that the Office action was not received, (2) a statement attesting to the fact that a search of the file jacket and other records indicate that the Office action was not received, and (3) all supporting documentary evidence available, as proof contra to the presumption of the delivery of the Office action such as copies of records, which disclose the receipt of other correspondence mailed from the Office on or about the same date as the action in question but fail to disclose receipt of that action would be acceptable or copies of records in which the action would have been entered had it been received, for example, file jacket notations, calendar notations, docket records, etc.

The request filed January 17, 2005 includes item (1) but not (2) and (3). Petitioner has not provided a statement attesting to the fact that he has searched the file jacket and that of all other records that he keeps for the instant application, which search failed to indicate that the Office communication in question was received. Petitioner has failed to describe what records, if any, he keeps to let him know what papers he has received from the Office and the due dates for the responses that need to be filed. How and where is the information regarding receipt of Office papers and mailing of responses kept? How does petitioner know a response is due? Is this information kept on a calendar? Separate sheet of paper? On the file maintained by petitioner? An explanation of where/how the above information is kept and copies of the pertinent papers should be submitted. To aid petitioner prepare a renewed petition, if that is petitioner's desire, enclosed is a copy of section 711.03(c) of the Manual of Patent Examining Procedure (MPEP), which section deals with petitions relating to abandonment. Any request for reconsideration of this decision should 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".

Summary: Petition to Withdraw Holding of Abandonment is Dismissed pending the submission of a renewed petition.

Richard A. Bertsch, Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

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

STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

COPY MAILED

NOV 0 1 2005

OFFICE OF PETITIONS

In re Application of :
Kim : DECISION ON PETITION
Application No. 10/352,003 :
Filed: January 28, 2003 :
Docket No.: 1561.1014 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 4, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned October 2, 2005 for failure to timely submit the issue fee in response to the Notice of Allowance and Issue Fee(s) Due ("Notice") mailed July 1, 2005. The Notice set a three month statutory period for reply. 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 CFR 1.137(b). Accordingly, the failure to timely submit a proper reply to the Notice is accepted as having been unintentionally delayed.

This application will be forwarded to the Publications Division for further processing.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 12

Delphine James
Suite 170
2656 South Loop West
Houston, TX 77054

COPY MAILED

OCT 1 8 2004

OFFICE OF PETITIONS

In re Application of :
Gonzalez and Smith :
Application No.: 10/352,009 : ON PETITION
Filed: January 27, 2003 :
Attorney Docket No: DMJ003 :

This is a decision on the petition under 37 CFR §1.137(b), September 17, 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 application became abandoned for failure to file a proper response to the "Notice of Allowance and Issue Fee Due" mailed March 23, 2004. The notice set a statutory period for reply of three months from its mailing date. A response was filed on June 17, 2004, however; the response was deficient by $15.00 dollars. No further responses were received within the allowed period. A Notice of Abandonment was mailed on August 18, 2004.

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

(1) the required reply, unless previously filed. In a non-provisional 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 require additional information where there is a question whether the delay was unintentional; and

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

The instant petition does not satisfy the requirements of item (1) above.

The computer records of the Patent and Trademark Office indicate that the petition fee of $665.00 and the publication fee of $300.00 were paid. According to the computer records, the issue fee remains deficient by $15.00 as no amount earmarked for issue fee was found with the petition papers. Any renewed petition filed must be accompanied by a $15.00 payment towards the satisfaction of the issue fee.

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

By mail: Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-0025
Attn: Office of Petitions

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

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

Delphine James
Suite 170
2656 South Loop West
Houston, TX 77054

COPY MAILED

JAN 12 2005

OFFICE OF PETITIONS

In re Application of

Gonzalez and Smith

Application No. 10/352,009

Filed: January 27, 2003

Attorney Docket No. DMJ003

DECISION ON PETITION

This is a decision on the renewed petition under 37 CFR §1.137(b), December 7, 2004, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to timely remit the issue fee of $665.00 and the publication fee of $300.00 as required by the Notice of Allowance and Issue Fee Due (the "Notice") mailed March 23, 2004. The Notice set forth a three (3) month statutory period for reply. A response was filed on June 17, 2004, however; the response was deficient by $15.00. No further responses were received within the allowed period. The application became abandoned on June 24, 2004. A Notice of Abandonment was mailed on August 18, 2004. A petition under 37 CFR 1.137(b) was filed on September 17, 2004, and dismissed by a decision mailed October 18, 2004. The instant renewed petition was filed on December 7, 2004.

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

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. A courtesy copy of this decision is being mailed to the person signing the instant petition.

The amount of $15.00 was received on December 7, 2004.

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

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Form PTO/SB/81—"Power of Attorney and Correspondence Address Indication Form"

OIPE JC71
MAR 0 7 2005
PATENT & TRADEMARK OFFICE

IFW

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF	:	Sebastian V. Kanakkanatt
FOR	:	**THERMOCHROMIC TIRE**
SERIAL NO.	:	10/352,015
FILED	:	January 27, 2003
LAST OFFICE ACTION	:	Unknown
EXAMINER	:	Unknown
ATTORNEY DOCKET NO.	:	30800.22320

Approved 1/22/05
JMStone
Jacqueline M. Stone, Director
Technology Center 1700

Akron, Ohio 44311-4407
March 2, 2005

****

CERTIFICATE OF MAILING

I hereby certify that this **APPLICATION TO WITHDRAW AS ATTORNEY OF RECORD ACCORDING TO 35 C.F.R. § 1.36** is being deposited with the U.S. Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450, on the following date:

3/4/05
Date

Connie J. Nutter
Connie J. Nutter

****

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

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

Dear Sir:

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

The reason for my requested withdrawal is contained in detail in the enclosed letter to Mr. Sebastian Kanakkanatt, but can be summarized as the Applicant has not paid me for the services he requested I perform and by his conduct the Applicant is making it unreasonably difficult for me to carry out my representation of him and employment by him, effectively.

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

I hereby revoke all Associate Powers of Attorney previously granted.

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

Mr. Sebastian Kanakkanatt
President
United Biotechnology, Inc.
526 S. Main St., Ste. 111
Akron, OH 44311

Respectfully yours,

BROUSE MCDOWELL

050304
Date

Roger D. Emerson
Reg. No. 33,169
388 S. Main Street, Suite 500
Akron, Ohio 44311-4407

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

603541.1

OIPE JC71
MAR 0 7 2005
PATENT & TRADEMARK OFFICE

BROUSE McDOWELL
A LEGAL PROFESSIONAL ASSOCIATION

Heather M. Barnes
Patent Attorney
hbarnes@brouse.com

388 S. Main Street
Suite 500
Akron, OH 44311-4407
Office: 330.535.5711
Fax: 330.253.8601

1001 Lakeside Avenue
Suite 1600
Cleveland, OH 44114-1151
Office: 216.830.6830
Fax: 216.830.6807

www.brouse.com

March 3, 2005

Mr. Sebastian Kanakkanatt, President
United Biotechnology, Inc.
526 S. Main St., Ste. 111
Akron, OH 44311

Re: Withdrawal of Representation
Before the U.S. Patent and Trademark Office
Our Ref.: 30800.22320, 30800.30011, and 30800.30012

Dear Sebastian:

This letter is in reference to our letter to you dated May 26, 2004, where we indicated to you the need to withdraw. Please note that I have asked the Commissioner of Trademarks to allow us to withdraw in representing you in this case. I have directed him to send all future correspondence and telephone inquiries to you at the above-referenced address.

Enclosed, please find a copy of all of the information I have sent to the Patent and Trademark Office on your behalf.

As I mentioned previously, it was a pleasure representing you during our few years together, and I hope that we can once again do business together if your financial situation resolves itself.

Very truly yours,

BROUSE McDOWELL

John M. Skeriotis

JMS/cjn
Enclosures
603810.1

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 : November 2, 2006

Patent No. :7,100,104
Inventor(s) : Y. Yamamoto, et al.
Issued :August 29, 2006
Docket No. :500.42426X00

Re: Request for Certificate of Correction

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

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

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

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

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

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

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

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

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

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

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

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

Any inquiry concerning this communication should be directed to Ms. A. Green at (703) 308-9380 ext. 123.

A. Green

For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 or (703) 308- 9380 ext. 123

Carl I. Brundidge, Esquire
Mattingly, Stanger, Malur & Brundidge, P.C.
1800 Diagonal Road – Suite 370
Alexandria, VA 22314

CBN/arg

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

CARL I. BRUNDIDGE, ESQUIRE
MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.
1800 DIAGONAL ROAD - SUITE 370
ALEXANDRIA, VA 22314

COPY MAILED

JUL 11 2007

OFFICE OF PETITIONS

In re Patent No. 7,100,104	:	
Issue Date: August 29, 2006	:	
Application No. 10/352,060	:	ON PETITION
Filed: January 28, 2003	:	
Attorney Docket No. 500.42426X00	:	

This is a decision on the petition, under 37 CFR 3.81(b), filed December 5, 2006, to include an omitted assignee's name on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **GRANTED**.

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

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3218. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

Frances Hicks
Petitions Examiner
Office of Petitions

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

MARSHALL, GERSTEIN & BORUN LLP
233 SOUTH WACKER DRIVE
6300 WILLIS TOWER
CHICAGO, IL 60606-6357

Mail Date: 04/21/2010

Applicant	: Theodore W. Meyers	: DECISION ON REQUEST FOR
Patent Number	: 7574831	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/352,086	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/28/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1182** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

Robert D. Katz
COOPER & DUNHAM LLP
1185 Avenue of the Americas
New York, NY 10036

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SEP 0 8 2006
OFFICE OF PETITIONS

In re Application of :
Sheree Wen : DECISION ON PETITION
Application No. 10/352,148 :
Filed: January 27, 2003 :
Attorney Docket No. 2929/67414:

This is a decision on the paper styled "PETITION UNDER 37 C.F.R. § 1.181 TO WITHDRAW HOLDING OF ABANDONMENT BASED ON FAILURE TO RECEIVE OFFICE ACTION," filed July 31, 2006.

The petition under 37 CFR § 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 file a reply to the final Office action mailed October 28, 2005. This Office action set a three-month shortened statutory period for reply, with extensions of time obtainable under 37 CFR §1.136(a). No reply having been received and no extension of time obtained, the above-identified application became abandoned on January 29, 2006. A courtesy Notice of Abandonment was mailed on May 31, 2006.

In response, applicant filed the instant petition, requesting that the holding of abandonment be withdrawn on the basis that the attorney-of-record never received the Office action.

A review of the application file reveals no irregularities in the mailing of the Office action mailed October 28, 2005. Thus, there is a strong presumption that the correspondence was properly mailed to the applicant at the correspondence address of record. In the absence of demonstrated irregularities in

mailing of this Notice, petitioner must submit evidence to overcome this presumption. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. In addition, a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

Petitioner has not made the required showing. The petition does not include a copy of the relevant docket records. Accordingly, the petition must be dismissed.

It is also noted that petitioner states that an amendment is being filed with the petition. No amendment is among the papers received in the Office with this petition on July 31, 2006.

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

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

Robert D. Katz
COOPER & DUNHAM LLP
1185 Avenue of the Americas
New York, NY 10036

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DEC 11 2006

OFFICE OF PETITIONS

In re Application of :
Sheree Wen : DECISION ON PETITION
Application No. 10/352,148 :
Filed: January 27, 2003 :
Attorney Docket No. 2929/67414:

This is a decision on the RENEWED PETITION UNDER 37 C.F.R. § 1.181 TO WITHDRAW HOLDING OF ABANDONMENT BASED ON FAILURE TO RECEIVE OFFICE ACTION filed September 14, 2006.

The above-identified application became abandoned effective January 29, 2006 for failure to file a reply to the final Office action mailed October 28, 2005. A courtesy Notice of Abandonment was mailed on May 31, 2006.

By decision mailed September 8, 2006, the initial "PETITION UNDER 37 C.F.R. § 1.181 TO WITHDRAW HOLDING OF ABANDONMENT BASED ON FAILURE TO RECEIVE OFFICE ACTION," filed July 31, 2006 was dismissed. The petition did not include an adequate showing of non-receipt of the Office action.

On instant renewed petition, applicants cured this deficiency. The renewed petition included a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed.

Petitioner has now supported his claim of non-receipt with an adequate showing.

In view thereof, the notice of abandonment mailed May 31, 2006 is hereby VACATED, and the holding of abandonment is hereby WITHDRAWN.

The petition under § 1.181 is **GRANTED**.

No fee is required on petition under § 1.181.

Technology Center AU 1771 has been advised of this decision. The application file is, thereby, forwarded to the Technology Center's technical support staff to withdraw the holding of abandonment and for re-mailing of the final Office action mailed October 28, 2005 and for restarting of the period for reply.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MIELE LAW GROUP
137 SO9UTH MAIN STREET
NATICK, MA 01760

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JAN 1 2 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of :
James A. Marquis et al :
Application No. 10/352,154 :
Filed: January 28, 2003 :
Attorney Docket No. P 300965/WHEELCHAIR :

This is a decision on the petition, filed January 5, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

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

The examiner of Technology Center AU 2632 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MORRIS, MANNING & MARTIN LLP
1600 ATLANTA FINANCIAL CENTER
3343 PEACHTREE ROAD NE
ATLANTA GA 30326

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JAN 12 2007

OFFICE OF PETITIONS

In re Application of

POLLET, et al.
Application No. 10/332,154
Filed: July 14, 2003
Attorney Docket No. 12654-39651

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 9, 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, "attorney of record switched law firms", 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 the undersigned at 571-272- 7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **BACON & THOMAS, PLLC**
625 SLATERS LANE, 4TH FLOOR
ALEXANDRIA, VA 22314-1176

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

Jacobson Holman
400 Seventh Street, NW
Washington, DC 20004

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DEC 3 0 2005

OFFICE OF PETITIONS

In re Application of :
Viggo Aaberg Kaern :
Application No. 10/352,181 : DECISION ON PETITION
Filed: January 28, 2003 :
Attorney Docket No. P68605US0 :

This is a decision on the petition under 37 CFR 1.181, filed on November 7, 2005, to withdraw the holding of abandonment.

On March 24, 2005, the Office mailed a nonfinal Office action, which set a three-month shortened statutory period to reply. In the apparent absence of a timely and proper response, the Office mailed a Notice of Abandonment on September 30, 2005.

Petitioner asserts that a proper response was filed timely. In support of the petition, petitioner submits a copy of a returned, date-stamped postcard receipt, acknowledging receipt of "Response to Office Action 1.111; Disclosure Statement - IDS & PTO Form 1449; and CCPF $180.00" in the USPTO on June 23, 2005. Copies of these documents are included with this petition.

The Office has located the original Transmittal, Second Supplemental Information Disclosure Statement and PTO Form 1449; however, the original response in the form of an amendment is not among the papers. Nevertheless, Section 503 of the MPEP states, "[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO." Accordingly, it is concluded that the response was filed timely in the USPTO on June 23, 2005, but was not matched with the application.

For the reasons stated above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The petition is **granted.**

This matter is being referred to Technology Center Art Unit 3711 for a review of the amendment filed on June 23, 2005.

Telephone inquiries specifically concerning this decision should be directed to the undersigned at (571) 272-3211. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

#5 DW

UNITED STATES PATENT AND TRADEMARK OFFICE

SEP 22 2003

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

MAILED

SEP 22 2003

OFFICE OF THE DIRECTOR
TC 3600

TORYS LLP
79 WELLINGTON ST. WEST
SUITE 3000
TORONTO ON M5K 1N2 CA CANADA

In re application of
Levanna Schwartz
Application No.10/352,184 : DECISION ON REQUEST
Filed: January 28, 2003 : FOR WITHDRAWAL OF
For: FLOOR PANEL FOR : ATTORNEY
FINISHED FLOORS

This is a decision on the renewed request filed on, August 6, 2003 under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. Besides giving due notice to his or her client and delivering to the client all papers and property to which the client is entitled as specified under 37 CFR 10.40, approval of such a request requires that the following conditions be met:

A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;

B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and

C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

The request to withdraw as attorney in the above-identified application is not approved as moot because the attorney making the request; Conon D. McCourt, does not now have, and apparently never has had, power of attorney in this application. The original declaration contained no explicit power of attorney; therefor power rested with the applicant. Any correspondence address change can only be made by the individual having power, in this case the inventor.

Further, as to item B) above, no reason has been provided.

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

SM/en 9/17/03

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MINTZ LEVIN COHN FERRIS
GLOVSKY AND POPEO PC
12010 SUNSET HILLS ROAD
SUITE 900
RESTON, VA 20190

MAILED

JUL 0 5 2005

Technology Center 2100

In re Application of:
Steve GARDNER, et al.
Application No.: 10/352,196
Filed: January 28, 2003
For: USER INTERFACE FOR A BIOINFORMATICS SYSTEM

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed May 09, 2005.

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

The request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

For

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

cc: Scott Wills
IPXL, Inc.
809 B Cuesta Drive
Suite 207
Mountain View, CA 94040

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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MINTZ, LEVIN, COHN, FERRIS
GLOVSKY AND POPEO, P.C.
One Financial Center
Boston, MA 02111

MAILED

JUN 2 5 2005

Technology Center 2100

In re Application of:
Steve GARDNER
Application No.: 10/352,197
Filed: January 28, 2003
For: ONTOLOGY-BASED INFORMATION MANAGEMENT SYSTEM AND METHOD

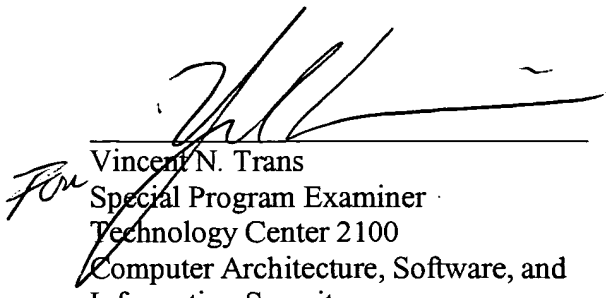
DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed May 09, 2005.

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

The request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.



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

cc: Scott Wills
IPXL, Inc.
809 B Cuesta Drive
Suite 207
Mountain View, CA 94040

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

SCOTT WILLS
IPXL, INC.
809 B CUESTA DRIVE
SUITE 207
MOUNTAIN VIEW, CA 94040

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APR 13 2007

OFFICE OF PETITIONS

In re Application of :
Steve Gardner :
Application No. 10/352,197 : DECISION ON PETITION
Filed: January 28, 2003 :
Attorney Docket No. 25690-021 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 11, 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 October 25, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed July 25, 2006. Accordingly, the date of abandonment of this application is October 26, 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 $700 and the publication fee of $300, (2) the petition fee of $750; and (3) a proper statement of unintentional delay.

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

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

petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

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

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

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: MICHAEL J. MLOTKOWSKI
PO BOX 10064
MCLEAN, VA 22102-8064

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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OLIFF & BERRIDGE, PLC
P. O. BOX 320850
ALEXANDRIA, VA 22320-4850

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OCT 17 2007

OFFICE OF PETITIONS

In re Application of :
Hideo Hoshuyama :
Application No. 10/352,201 : DECISION GRANTING PETITION
Filed: January 28, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 114816 :

This is a decision on the petition, filed October 16, 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 27, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2622 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\352201.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.*

UNITED STATES PATENT AND TRADEMARK OFFICE

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ERIC ROBINSON
PMB 955
21010 SOUTHBANK STREET
POTOMAC FALLS, VA 20165

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APR 27 2007

OFFICE OF PETITIONS

In re Application of	:	
Atsuo Isobe et al	:	
Application No. 10/352,233	:	DECISION GRANTING PETITION
Filed: January 28, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 0756-7117	:	

This is a decision on the petition, filed April 25, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on March 23, 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 3663 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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DEC 0 4 2007

OFFICE OF PETITIONS

ROBERTS, MLOTKOWSKI & HOBBES
P.O. BOX 10064
MCLEAN VA 22102-8064

In re Application of :
Steve Gardner :
Application No. 10/352,242 : DECISION ON PETITION
Filed: January 28, 2003 :
Attorney Docket No. 25690-020 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 24, 2007, to revive the above-identified application.

The petition is **GRANTED**.

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

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of August 4, 2006. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is November 5, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal; (2) the petition fee of $750; and (3) a proper statement of unintentional delay.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $510 extension of time fee submitted with the petition on May 24, 2007 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

This application is being referred to Technology Center AU 1631 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No.

John F. Hayden
FISH & RICHARDSON
1425 K Street, N.W.
11th Floor
Washington, DC 20005-3500

MAILED

JAN 11 2006

TECHNOLOGY CENTER 2100

In re Application of:
Hiroshi Kobata
Application No. 10/352,243
Filed: January 28, 2003
For: SMART INTERNET INFORMATION DELIVERY SYSTEM

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed April 04, 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 April 04, 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.

for James R. Matthews

Brian L. Johnson
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
(571) 272-3595

cc: ATABOK JAPAN, INC.
c/o Toby Tsuchida
Special Assistant to CEO, Director of
Corporate Strategy
ATABOK, INC.
29 Crafts Street, Suite 300
Newton, MA 02458

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ALEXANDRIA, VA 22313-1450
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Paper No. 5

STERNE KESSLER GOLDSTEIN & FOX
1100 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005-3934

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SEP 22 2003

OFFICE OF PETITIONS

In re Application of :
Mark Dale et al :
Application No. 10/352,244 : DECISION GRANTING STATUS
Filed: January 28, 2003 : UNDER 37 CFR 1.47(A)
For: UPSTREAM FREQUENCY CONTROL FOR :
DOCSIS BASED SATELLITE SYSTEMS

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.

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

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

This application is being forwarded to Technology Center AU 2681 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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SEP 22 2003

OFFICE OF PETITIONS

MARK DALE
26962 WILLOW TREE LANE
LAGUNA HILLS, CA 92653

In re Application of
Dale; Lin; Gin; Hartman; Brescia; Bhaskaran; Chien; and Fanous
Application No. 10/352,244
Filed: January 28, 2003
For: UPSTREAM FREQUENCY CONTROL FOR DOCSIS BASED SATELLITE SYSTEMS

Dear Mr. Dale:

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:
STERNE KESSLER GOLDSTEIN & FOX
1100 NEW YORK AVENUE N W
WASHINGTON, DC 20005-3934

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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MCKENNA LONG & ALDRIDGE LLP
1900 K STREET, NW
WASHINGTON DC 20006

MAILED

MAY 27 2010

OFFICE OF PETITIONS

In re Application of	:	
Eugenio Cruz Garcia, et al.	:	
Application No. 10/352,248	:	DECISION GRANTING PETITION
Filed: January 28, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 5724.017.21	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, May 26, 2010 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on April 26, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 3636 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Terri Johnson
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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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 5

STERNE, KESSLER, GOLDSTEIN & FOX PLLC
1100 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

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AUG 29 2003

OFFICE OF PETITIONS

In re Application of :
Dale et al. :
Application No. 10/352,251 : DECISION GRANTING
Filed: January 28, 2003 : PETITION UNDER
Attorney Docket No. : 37 CFR 1.47(a)
1875.3170000 :
For: UPSTREAM ADAPTIVE :
MODULATION IN DOCSIS BASED :
APPLICATIONS :

This is in response to the petition under 37 CFR 1.47(a), filed June 19, 2003. Petitioner obtained a two-month extension of time. Accordingly, the petition is considered filed timely.

The petition is granted.

Petitioner has shown that Mark Dale, the non-signing inventor, has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the Statement of Facts of Patrick E. Garrett establishes that the inventor was presented with the application papers, including the specification, claims and drawings, but failed to respond to the request that he sign the declaration.

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 present petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being forwarded to Technology Center 2600 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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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Mark Dale
26962 Willow Tree Lane
Laguna Hills, CA 92653

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AUG 2 9 2003

OFFICE OF PETITIONS

In re Application of :
Dale et al. :
Application No. 10/352,251 :
Filed: January 28, 2003 : LETTER
Attorney Docket No. :
1875.3170000 :
For: UPSTREAM ADAPTIVE :
MODULATION IN DOCSIS BASED :
APPLICATIONS :

Dear Mr. Dale:

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

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

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

STERNE, KESSLER, GOLDSTEIN & FOX PLLC
1100 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

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Paper No. 6

Irving Keschner
Suite 1150
21515 Hawthorne Boulevard
Torrance, CA 90503

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MAR 25 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of
Michael Beransky, et. al.
Application No. 10/352,276
Filed: January 29, 2003
Attorney Docket No. N/A

This is a decision on the petition under 37 CFR 1.137(b), filed March 15, 2004, to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers (Notice) mailed March 11, 2003. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned after midnight May 11, 2003.

In response to the Notice to File Corrected Application Papers, petitioner submitted with the instant petition $665 for the petition to revive fee, and seventeen (17) sheets of replacement drawings, containing Figures 1-35, in compliance with 37 CFR 1.84.

Since the requirements for a grantable petition have been met, the petition is **GRANTED**.

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

Telephone inquiries concerning this decision should be directed to Andrea Smith at (703) 308-6711.

Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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LOUIS J. WILLE
BRISTOL-MYERS SQUIBB
COMPANY
PATENT DEPARTMENT
P O BOX 4000
PRINCETON, NJ 08543-4000

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MAR 0 1 2007

OFFICE OF PETITIONS

In re Application of

Kadow, et al. :

Application No. 10/352,279

: DECISION ON PETITION

Filed: January 23, 2003

:

Attorney Docket No. GY99NP

This is a decision on the petition under 37 CFR 1.137(b), filed, August 28, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to file an appeal brief within the two-months after the filing of the Notice of Appeal on December 13, 2005. The application became abandoned on February 15, 2006. A Notice of Abandonment was mailed on July 26, 2006.

The continuing application 11/511, 123 filed August 28, 2006, is noted.

The subject application is being revived for continuity purposes only and is again abandoned in favor or the continuing application noted above.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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LAW OFFICE OF DAVID L. TINGEY
15 SOUTH GRADY WAY, SUITE 336
RENTON WA 98057

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JAN 13 2010

In re Application of	:	
Steven G. Hoover, et al.	:	
Application No. 10/352,321	:	DECISION ON PETITION
Filed: January 27, 2003	:	
Attorney Docket No. AI-03-01	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 9, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, July 9, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on October 10, 2008. The Notice of Abandonment was mailed February 18, 2009.

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

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

This application is being referred to Technology Center AU 3715 for appropriate action by the Examiner in the normal course of business on the reply received.

Terri Johnson
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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Paper No. 6

WILLIAM O. GENY, ESQ.
CHERNOFF VILHAUER McCLUNG & STENZEL
1600 ODS TOWER
601 SW SECOND AVENUE
PORTLAND, OR 97204-3157

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JUN 1 6 2004

OFFICE OF PETITIONS

In re Application of	:	
John Souza et al	:	
Application No. 10/352,332	:	ON PETITION
Filed: January 27, 2003	:	
Attorney Docket No. WOG 8375.0001	:	

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed March 11, 2003. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on May 12, 2003.

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

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

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

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ALEXANDRIA, VA 22313-1450
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Paper No. 5

CONLEY ROSE, P.C.
5700 GRANITE PARKWAY, SUITE 330
PLANO TX 75024

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AUG 0 4 2003

OFFICE OF PETITIONS

In re Application of
DeMoore & Branson
Application No. 10/352,334
Filed: January 27, 2003
Attorney Docket No. 4040-00413
For: ANTI-STATIC, ANTI-SMEARING PRE-STRETCHED AND PRESSED FLAT, PRECISION-CUT STRIPED FLEXIBLE COVERINGS FOR TRANSFER CYLINDERS

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

This is in response to the petition under 37 CFR 1.47(a), filed May 27, 2003.

The petition is granted.

Petitioner has shown that the non-signing inventor, John Andrew Branson, has constructively refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the statement of facts of Attorney Albert C. Metrailer establishes that Attorney Metrailer a left phone message for Mr. Branson concerning the need for his signature on the declaration. The message was not returned. Attorney Metrailer mailed Mr. Branson the application papers, including the specification, claims and drawings, but the inventor did not claim the package. Mr. Branson's current address was verified from a review of Dallas County tax records. 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 further processing.

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 OF PATENTS

January 13, 2005

Robert J. Van Der Wall
Colonial Bank Centre, Suite 1620
1200 Brickell Ave.
Miami, FL 33131-3257

In re Application of:
Scott Windham, et al
Serial No: 10/352,366 On Petition
Filing Date: January 27, 2003
For: WASTE WATER TREATMENT BIOCATALYST

In response to the petition received March 11, 2004, to withdraw the holding of abandonment in the above application.

The petition is Granted.

The above-identified application became abandoned for failure to reply with the meaning of 37 C.D.R 1.113 in a timely manner to the Notice to File Missing Parts of Non Provisional Application mailed April 9, 2003. Which set forth a shortened statutory period for reply of two months. Accordingly, the above-identified application became abandoned June 10, 2003. The notice of abandonment was mailed on June 10, 2003.

The evidence submitted is sufficient to establish that the petitioners never received the Notice to File Missing part of Nonprovisional Application mailed April 9, 2003.

Enclosed is a new Notice to File Missing Parts giving counsel 2 months from the date of the notice to respond.

The office regrets any inconvenience this may have caused the client.

Telephone inquiries concerning this application may be directed to Doshie E. Day (703) 308-3640.

Doshie E. Day
Program Management Assistant
Office of Initial Patent Examination

Enclosure: 1

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GEORGE H. GERSTMAN
SEYFARTH SHAW
SUITE 4200
55 EAST MONROE STREET
CHICAGO, IL 60603-5803

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NOV 0 2 2005

OFFICE OF PETITIONS

In re Application of :
Bill Wells et al :
Application No. 10/352,404 : ON PETITION
Filed: January 28, 2003 :
Attorney Docket No. 402145 :

This is a decision on the petition, filed November 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 November 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]

After careful review of the application file, there is no record of a statement under 37 CFR 3.73(b) being filed. Therefore, the revocation of prior powers of attorney filed November 1, 2005, is not in compliance with 37 CFR § 3.73(b).

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

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

The examiner of Technology Center AU 3713 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

cc:
BEYER WEAVER & THOMAS
P.O. BOX 70250
OAKLAND, CA 94612-0250

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MARTINE & PENILLA, LLP
710 LAKEWAY DRIVE
SUITE 170
SUNNYVALE, CA 94085

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OFFICE OF PETITIONS

In re Application of :
Thomas A. Skupien :
Application No. 10/352,412 : ON PETITION
Filed: January 28, 2003 :
Attorney Docket No. ALTEP054 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 13, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the Office action mailed December 1, 2003. Accordingly, this application became abandoned on March 2, 2004. A Notice of Abandonment was mailed on June 15, 2004.

Pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the $950.00 extension of time submitted with the petition on July 13, 2004, was subsequent to the maximum period obtainable for reply, this fee is unnecessary and will be refunded by treasury check.

The file is being forwarded to Technology Center 2800 for review of the amendment filed July 13, 2004.

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

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

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In re Application of :
Scott R. Petersen :
Application No. 10/352,420 : DECISION ON PETITION
Filed: January 28, 2003 : UNDER 37 CFR 1.313(a)
Attorney Docket No. 1001.1464102 :

This is a decision on the petition, filed October 26, 2004, which is being treated as a petition under 37 CFR 1.313(a) to withdraw the subject application from issue prior to payment of the issue fee.

The petition is **DISMISSED AS MOOT** for the reason stated below.

Initially, the record fails to disclose that any action was taken on the instant petition. Accordingly, the issues raised in the petition will now be addressed.

Petitioner requests withdrawal from issue for the purpose of consideration by the Examiner of an Information Disclosure Statement filed on May 6, 2003.

A review of the file record discloses that the Examiner has considered the Information Disclosure Statement of May 6, 2003, as noted in the Supplemental Notice of Allowability mailed September 12, 2005. Therefore, withdrawal of the application from issue is unnecessary nor would such action have been proper since consideration of the references can be accomplished without withdrawing the application from issue.

It is noted that the Notices mailed on September 12, 2005 were returned as undeliverable because the Office failed to note the change of address filed on November 10, 2004. The record for this file has now been corrected to reflect the change of address. A copy of the Notices mailed on September 12, 2005, which did not reset the period for paying the issue fee, accompanies this decision on petition.

In view of the timely payment of the issue fee on November 10, 2004, this matter is being referred to Publishing Division.

Frances Hicks
Petitions Examiner
Office of Petitions
(571) 272-3218

ATTACHMENT: Copy of Notices mailed September 12, 2005

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P.O. Box 1450
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Date : March 11 2009

Patent No. :7395351
Inventor(s) :Nucci, et al.
Issued :July 1, 2008
Title :METHOD FOR ASSIGNING LINK WEIGHTS IN A COMMUNICATIONS NETWORK

Re: Request for Certificate of Correction

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

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

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

A. state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent;

B. include a request for a certificate of correction under 37 CFR 1.323 along with the fee set forth in 37 CFR 1.20(a); and

C. include the processing fee set forth in 37 CFR 1.17(i).

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

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

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

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

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

By hand:	Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	571-273-8300 ATTN: Office of Petitions
EFS web	uspto.gov/ebc/index.html (must be registered as an e-filer to submit responses) Technical Support 1-866-217-9197

Any inquiry concerning this communication should be directed to Ms. A. Green at (703) 308-9380 ext. 123.

Mary Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(703) 308-9390 or (703) 308-9390 ext. 123

SPRINT COMMUNICATIONS COMPANY L.P.
6392 SPRINT PARKWAY
KSOPHTO010-32100
OVERLAND PARK KS 66251-2100

/arg

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SPRINT COMMUNICATIONS COMPANY L.P.
6391 SPRINT PARKWAY
KSOPHT0101-Z2100
OVERLAND PARK KS 66251-2100

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JUN 16 2009

OFFICE OF PETITIONS

In re Application of	:	
Nucci et al.	:	
Application No. 10/352425	:	DECISION
Filing or 371(c) Date: 01/28/2003	:	ON PETITION
Patent No.: 7,395,351	:	
Issue Date: 07/01/2008	:	
Attorney Docket Number: 1917/SPRI.98254	:	

This is a decision on the "Request for Certificate of Correction," filed April 10, 2009, to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction. The request is properly treated as a petition under 37 CFR 3.81(b)[1].

The Petition is **granted**.

The petition was accompanied by a certificate of correction as required by 3.81(b), and the fee submitted with the present petition. Further, Office assignment records reflect that Sprint Communications Company L.P., is the assignee of record. As the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to be processed.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

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.

Applicant is advised that, in patented files: requests for changes of correspondence address, powers of attorney, revocations of powers of attorney, withdrawal of attorney and submissions under 37 CFR

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

1.501: Designation of, or changes to, a fee address, should be addressed to Mail Stop M Correspondence.

This matter is being referred to the Certificates of Correction Branch for processing of a certificate of correction after issuance of this application into a patent.

The Certificate of Correction fee has been charged to Petitioner's deposit account.

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

CC: SHOOK, HARDY & BACON, LLP
2555 GRAND BOULEVARD
KANSAS CITY, MO 64108

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SUITE 820
MINNEAPOLIS, MN 55402

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OFFICE OF PETITIONS

In re Application of :
Liu, Chuen-Yi :
Application No. 10/352,432 : ON PETITION
Filed: January 28, 2003 :
Attorney Docket No. AP4002 (15739/194) :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed May 24, 2004, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to timely reply within three months to the non-final Office action mailed November 10, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on February 11, 2004.

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

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. 10/827,506.

Telephone inquiries should be directed to the undersigned at (703) 306-0482. Any telephone inquiries after approximately **September 24, 2004** 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

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OFFICE OF PETITIONS

In re Application of :
CRAIG, CHARLES HORACE : LETTER REGARDING PATENT
Application No. 10/352,458 : TERM ADJUSTMENT
Filed: January 28, 2003 :
Attorney Docket No. 10527-421002 :

This letter is in response to the "LETTER REGARDING PATENT TERM ADJUSTMENT," filed May 8, 2008. Pursuant to applicant's duty of good faith and candor to the Office, applicant requests that the determination of patent term adjustment under 35 U.S.C. 154(b) be reviewed for accuracy.

The request for review of the initial Determination of Patent Term Adjustment is **granted**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the notice of allowance is **88 days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On April 17, 2008, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 123 days. On May 8, 2008, applicant submitted the instant comment.

Applicant states that the Office failed to assess applicant any delay for the filing of the reply to the final Office action of April 11, 2006.

The application history has been reviewed and it has been determined that the initial determination of patent term adjustment under 35 U.S.C. 154(b) of 123 days is incorrect.

A final Office action was mailed on April 11, 2006. Applicant filed a response on August 15, 2006, in excess of the three-month period from the mailing date of the final Office action. See 37 CFR 1.704(b). Thus, applicant failed to engage in reasonable efforts to conclude prosecution of this application. The period of adjustment should have been reduced by 35 days, the number of days in the period beginning on the day after the date that is three months after the date of mailing of the final Office action, July 12, 2006, ending on the date the reply was filed, August 15, 2006. See 37 CFR 1.704(b). Accordingly, a period of reduction of 35 days will be entered.

In view thereof, the correct patent term adjustment at the time of the mailing of the notice of allowance is **88 days** (185 days of Office delay - 97 days of applicant delay).

As this letter was submitted as an advisement to the Office of an error in applicant's favor, the Office will not assess the $200.00 fee as set forth in 37 CFR 1.18(e). The Office thanks applicant for applicant's good faith and candor in bringing this to the attention of the Office.

Applicant is reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicant will be notified in the Issue Notification letter that is mailed to applicant approximately three weeks prior to issuance.

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries regarding this matter should be directed to Christina Tartera Donnell, Senior Petitions Attorney, at (571) 272-3211.

Kery A. Fries

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

Enclosure: Copy of updated PAIR screen

Day : Thursday
Date: 9/25/2008

PALM INTRANET

Time: 14:54:27

PTA Calculations for Application: 10/352458			
Application Filing Date:	01/28/2003	PTO Delay (PTO):	185
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	62
Post-Issue Petitions:	0	Total PTA (days):	88
PTO Delay Adjustment:	-35		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
89	09/25/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		35	
80	04/17/2008	MAIL NOTICE OF ALLOWANCE			
79	04/11/2008	ISSUE REVISION COMPLETED			
78	04/10/2008	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
77	04/10/2008	DOCUMENT VERIFICATION			
76	04/10/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
75	04/10/2008	CASE DOCKETED TO EXAMINER IN GAU			
74	03/31/2008	NOTICE OF ALLOWABILITY			
70	02/07/2008	APPEAL BRIEF REVIEW COMPLETE			
69	02/07/2008	DATE FORWARDED TO EXAMINER			
68	01/24/2008	APPEAL BRIEF FILED			
67	01/02/2008	NOTICE OF APPEAL FILED		1	59
66	12/06/2007	MAIL ADVISORY ACTION (PTOL - 303)			
65	12/05/2007	ADVISORY ACTION (PTOL-303)			
64	11/30/2007	DATE FORWARDED TO EXAMINER			
63	10/30/2007	AMENDMENT AFTER FINAL REJECTION			
62	10/12/2007	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
61	10/09/2007	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
60	10/04/2007	CASE DOCKETED TO EXAMINER IN GAU			
59	10/01/2007	MAIL FINAL REJECTION (PTOL - 326)			
58	09/27/2007	FINAL REJECTION			
57	07/28/2007	DATE FORWARDED TO EXAMINER			
56	07/23/2007	RESPONSE AFTER NON-FINAL ACTION			

55	07/03/2007	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
54	06/26/2007	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
53	06/18/2007	MAIL NON-FINAL REJECTION			
52	06/14/2007	NON-FINAL REJECTION			
51	04/13/2007	DATE FORWARDED TO EXAMINER			
50	04/09/2007	RESPONSE AFTER NON-FINAL ACTION			
49	03/06/2007	MAIL NON-FINAL REJECTION			
48	03/02/2007	NON-FINAL REJECTION			
47	01/09/2007	DATE FORWARDED TO EXAMINER			
46	12/12/2006	RESPONSE AFTER NON-FINAL ACTION			
45	11/01/2006	MAIL NON-FINAL REJECTION			
44	10/30/2006	NON-FINAL REJECTION			
43	10/14/2006	CASE DOCKETED TO EXAMINER IN GAU			
42	08/17/2006	DATE FORWARDED TO EXAMINER			
41	08/15/2006	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
40	08/17/2006	DATE FORWARDED TO EXAMINER			
39	08/15/2006	REQUEST FOR CONTINUED EXAMINATION (RCE)			
38	08/17/2006	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
37	08/15/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
36	08/15/2006	WORKFLOW - REQUEST FOR RCE - BEGIN			
35	04/11/2006	MAIL FINAL REJECTION (PTOL - 326)			
34	04/10/2006	FINAL REJECTION			
33	04/05/2006	CASE DOCKETED TO EXAMINER IN GAU			
32	02/09/2006	DATE FORWARDED TO EXAMINER			
31	02/02/2006	RESPONSE AFTER NON-FINAL ACTION		35	29
30	02/02/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
29	09/29/2005	MAIL NON-FINAL REJECTION			
28	09/27/2005	NON-FINAL REJECTION			
27	07/21/2005	DATE FORWARDED TO EXAMINER			
26	07/13/2005	RESPONSE AFTER NON-FINAL ACTION			
25	01/25/2005	PRELIMINARY AMENDMENT			
24	06/23/2005	CASE DOCKETED TO EXAMINER IN GAU			

23	05/06/2005	MAIL NON-FINAL REJECTION			
22	05/03/2005	NON-FINAL REJECTION			
21	04/25/2005	PARALEGAL TD ACCEPTED			
20	04/18/2005	TERMINAL DISCLAIMER FILED		0	18
19	04/22/2005	DATE FORWARDED TO EXAMINER			
18	04/18/2005	AMENDMENT AFTER FINAL REJECTION			
17	02/18/2005	MAIL FINAL REJECTION (PTOL - 326)			
16	02/17/2005	FINAL REJECTION			
15	02/17/2005	DATE FORWARDED TO EXAMINER			
14	01/24/2005	RESPONSE AFTER NON-FINAL ACTION		26	11
13	01/24/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
12	01/24/2005	WORKFLOW INCOMING AMENDMENT IFW			
11	09/29/2004	MAIL NON-FINAL REJECTION	185		-1
10	09/15/2004	NON-FINAL REJECTION			
9	05/05/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
8	05/05/2004	REFERENCE CAPTURE ON IDS			
7.7	01/28/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
7	01/28/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
5	03/31/2003	CASE DOCKETED TO EXAMINER IN GAU			
4	03/11/2003	APPLICATION DISPATCHED FROM OIPE			
3	03/07/2003	APPLICATION IS NOW COMPLETE			
2	02/06/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	01/28/2003	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. 7,445,749	:	DECISION ON REQUEST FOR
Issued: November 4, 2008	:	RECONSIDERATION OF PATENT
Application No. 10/352,458	:	TERM ADJUSTMENT AND
Filed: January 28, 2003	:	NOTICE OF INTENT TO ISSUE
Atty Docket No. 10527-421002	:	CERTIFICATE OF CORRECTION

This is a decision on the "LETTER RE PATENT TERM ADJUSTMENT" filed Monday, January 5, 2009. Patentee requests that the patent term adjustment for the above-identified patent be set at 102 days.

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

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **102 days**.

On November 4, 2008, Application No. 10/352,458 matured into Patent No. 7,445,749. The instant request for reconsideration filed Monday, January 5, 2009, was timely filed within two (2) months of the date the patent issued. See 37 CFR 1.705(d). The patent issued with a revised Patent Term Adjustment of 0 days.

Patentee disputes the reduction of 120 days associated with the filing of a "miscellaneous incoming letter" received in the Office on May 8, 2008. Patentee asserts that the paper filed on May 8, 2008, was a Letter of Candor and Good Faith, and therefore, no reduction is warranted under 37 CFR 1.704(c)(10).

A review of the PALM calculations for this application reveals that the patent term adjustment was reduced by 120 days for the submission of the "miscellaneous incoming letter." See 37 CFR 1.704(c)(10). However, a review of the application record confirms that no paper aside from the Letter of Candor and Good Faith was filed after the mailing of the notice of allowance. A Letter of Candor and Good Faith is not a paper for which its filing is considered a "failure to engage in reasonable efforts" within the meaning of 37 CFR 1.704(c)(10). Thus, it is concluded that the reduction of 120 days is not warranted and will be removed.

In view thereof, the patent term adjustment indicated in the patent should be **102 days**.

No fee under 37 CFR 1.18(e) is necessary.

This matter is being referred to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **102 days**.

Telephone inquiries specific to this matter should be directed to Christina Tartera Donnell, Senior Petitions Attorney, at (571) 272-3211.

Kery A. Fries

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

Enclosure: Copy of DRAFT Certificate of Correction

Day : Thursday
Date: 3/19/2009

PALM INTRANET

Time: 10:10:43

PTA Calculations for Application: 10/352458			
Application Filing Date:	01/28/2003	PTO Delay (PTO):	199
Issue Date of Patent:	11/04/2008	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	182
Post-Issue Petitions:	0	Total PTA (days):	102
PTO Delay Adjustment:	85		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
100	03/19/2009	ADJUSTMENT OF PTA CALCULATION BY PTO	120		
95.5	10/15/2008	PTA 36 MONTHS	14		
95	11/04/2008	PATENT ISSUE DATE USED IN PTA CALCULATION			
94	10/07/2008	EXPORT TO FINAL DATA CAPTURE			
93	10/06/2008	DISPATCH TO FDC			
92	10/06/2008	DISPATCH TO FDC			
91	09/30/2008	MAIL-RECORD A PETITION DECISION OF GRANTED FOR PATENT TERM ADJUSTMENT AFTER ALLOWANCE			
90	09/29/2008	RECORD A PETITION DECISION OF GRANTED FOR PATENT TERM ADJUSTMENT AFTER ALLOWANCE			
90	09/29/2008	RECORD A PETITION DECISION OF GRANTED FOR PATENT TERM ADJUSTMENT AFTER ALLOWANCE			
89	09/25/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		35	
89	09/25/2008	ADJUSTMENT OF PTA CALCULATION BY PTO			
88	07/17/2008	APPLICATION IS CONSIDERED READY FOR ISSUE			
87	07/16/2008	ISSUE FEE PAYMENT VERIFIED			
86	05/08/2008	MISCELLANEOUS INCOMING LETTER		120	
85	07/16/2008	ISSUE FEE PAYMENT VERIFIED			
84	07/16/2008	ISSUE FEE PAYMENT RECEIVED			
83	06/27/2008	FINISHED INITIAL DATA CAPTURE			
82	05/08/2008	PETITION ENTERED			
81	04/21/2008	EXPORT TO INITIAL DATA CAPTURE			
80	04/17/2008	MAIL NOTICE OF ALLOWANCE			

79	04/11/2008	ISSUE REVISION COMPLETED			
78	04/10/2008	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
77	04/10/2008	DOCUMENT VERIFICATION			
76	04/10/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
75	04/10/2008	CASE DOCKETED TO EXAMINER IN GAU			
74	03/31/2008	NOTICE OF ALLOWABILITY			
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67	01/02/2008	NOTICE OF APPEAL FILED		1	59
66	12/06/2007	MAIL ADVISORY ACTION (PTOL - 303)			
65	12/05/2007	ADVISORY ACTION (PTOL-303)			
64	11/30/2007	DATE FORWARDED TO EXAMINER			
63	10/30/2007	AMENDMENT AFTER FINAL REJECTION			
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61	10/09/2007	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
60	10/04/2007	CASE DOCKETED TO EXAMINER IN GAU			
59	10/01/2007	MAIL FINAL REJECTION (PTOL - 326)			
58	09/27/2007	FINAL REJECTION			
57	07/28/2007	DATE FORWARDED TO EXAMINER			
56	07/23/2007	RESPONSE AFTER NON-FINAL ACTION			
55	07/03/2007	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
54	06/26/2007	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
53	06/18/2007	MAIL NON-FINAL REJECTION			
52	06/14/2007	NON-FINAL REJECTION			
51	04/13/2007	DATE FORWARDED TO EXAMINER			
50	04/09/2007	RESPONSE AFTER NON-FINAL ACTION			
49	03/06/2007	MAIL NON-FINAL REJECTION			
48	03/02/2007	NON-FINAL REJECTION			
47	01/09/2007	DATE FORWARDED TO EXAMINER			
46	12/12/2006	RESPONSE AFTER NON-FINAL ACTION			
45	11/01/2006	MAIL NON-FINAL REJECTION			
44	10/30/2006	NON-FINAL REJECTION			

43	10/14/2006	CASE DOCKETED TO EXAMINER IN GAU			
42	08/17/2006	DATE FORWARDED TO EXAMINER			
41	08/15/2006	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
40	08/17/2006	DATE FORWARDED TO EXAMINER			
39	08/15/2006	REQUEST FOR CONTINUED EXAMINATION (RCE)			
38	08/17/2006	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
37	08/15/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
36	08/15/2006	WORKFLOW - REQUEST FOR RCE - BEGIN			
35	04/11/2006	MAIL FINAL REJECTION (PTOL - 326)			
34	04/10/2006	FINAL REJECTION			
33	04/05/2006	CASE DOCKETED TO EXAMINER IN GAU			
32	02/09/2006	DATE FORWARDED TO EXAMINER			
31	02/02/2006	RESPONSE AFTER NON-FINAL ACTION		35	29
30	02/02/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
29	09/29/2005	MAIL NON-FINAL REJECTION			
28	09/27/2005	NON-FINAL REJECTION			
27	07/21/2005	DATE FORWARDED TO EXAMINER			
26	07/13/2005	RESPONSE AFTER NON-FINAL ACTION			
25	01/25/2005	PRELIMINARY AMENDMENT			
24	06/23/2005	CASE DOCKETED TO EXAMINER IN GAU			
23	05/06/2005	MAIL NON-FINAL REJECTION			
22	05/03/2005	NON-FINAL REJECTION			
21	04/25/2005	PARALEGAL TD ACCEPTED			
20	04/18/2005	TERMINAL DISCLAIMER FILED		0	18
19	04/22/2005	DATE FORWARDED TO EXAMINER			
18	04/18/2005	AMENDMENT AFTER FINAL REJECTION			
17	02/18/2005	MAIL FINAL REJECTION (PTOL - 326)			
16	02/17/2005	FINAL REJECTION			
15	02/17/2005	DATE FORWARDED TO EXAMINER			
14	01/24/2005	RESPONSE AFTER NON-FINAL ACTION		26	11
13	01/24/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
12	01/24/2005	WORKFLOW INCOMING AMENDMENT IFW			
11	09/29/2004	MAIL NON-FINAL REJECTION	185		-1

10	09/15/2004	NON-FINAL REJECTION			
9	05/05/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
8	05/05/2004	REFERENCE CAPTURE ON IDS			
7.7	01/28/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
7	01/28/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
5	03/31/2003	CASE DOCKETED TO EXAMINER IN GAU			
4	03/11/2003	APPLICATION DISPATCHED FROM OIPE			
3	03/07/2003	APPLICATION IS NOW COMPLETE			
2	02/06/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	01/28/2003	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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CERTIFICATE OF CORRECTION

PATENT : 7,445,749 B2

DATED : Nov. 4, 2008

INVENTOR(S) : Craig

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

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (0) days

Delete the phrase "by 0 days" and insert – by 102 days--

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DAVID FONDA, ATTORNEY AT LAW, PC
8 EAST BROADWAY
SUITE 600
SALT LAKE CITY, UT 84111

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OFFICE OF PETITIONS

In re Application of	:	
Stat Cochron	:	DECISION ON PETITION
Application No. 10/352,463	:	UNDER 37 CFR 1.137(b)
Filed: January 27, 2003	:	
Attorney Docket No. 3307.2.1.2	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 9, 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 December 8, 2005 as required by the Notice of Allowance and Fee(s) Due, mailed September 8, 2005.

The petition satisfies the requirements for a grantable petition in that the reply in the form of payment of the $700 issue fee and $300 publication fee; the petition fee of $750; and the required statement of unintentional delay have been submitted. Accordingly, the issue and publication fees are accepted as having been unintentionally delayed.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Publishing Division.

Frances Hicks
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Patent No. 6,795,624 :
Issue Date: September 21, 2004 :
Application No. 10/352,472 : NOTICE
Filed: January 28, 2003 :
Attorney Docket No. 7385-89186 :

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 Files Repository.

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

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OFFICE OF PETITIONS

In re Application of :
Ron Kunkel, et al. :
Application No. 10/352,477 : ON PETITION
Filed: January 28, 2003 :
Attorney Docket No. 7385-89187 :

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

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Dallas, TX 75202

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OFFICE OF PETITIONS

In re Application of
Durrell G. Tidwell, et al.
Application No. 10/352,478
Filed: January 28, 2003
Attorney Docket No. 31849.25

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed July 19, 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 June 9, 2003. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

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

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

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

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

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of November 11, 2004 accompanies this decision on petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-3475.

This application is being forwarded to Technology Center Art Unit 3700 for examination in due course.

Marianne E. Jenkins

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

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

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Daniel K. Nichols
Motorola, Inc. – Law Department
1303 E. Algonquin Road
Schaumburg, IL 60196

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OFFICE OF PETITIONS

In re Patent No. 6,841,080 :
Issue Date: January 11, 2005 :
Application No. 10/352,483 : ON PETITION
Filed: January 28, 2003 :
Attorney Docket No. CM01373I D01 :

This is a decision on the petition filed August 5, 2005, which is being treated as a request under 37 CFR 3.81(b) to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **GRANTED**.

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

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3223. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

Marianne E. Jenkins
Petitions Examiner
Office of Petitions

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C/O DARBY & DARBY P.C.
P.O. BOX 770/CHURCH STREET STATION
NEW YORK, NY 10008-0770

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In re Application of :

DAMRON, Peter C. :
Application No. 10/352,495 : DECISION ON PETITION
Filed: January 28, 2003 : TO WITHDRAW
Attorney Docket No. **20910/0205507-US0** : 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 22, 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 John W. Branch 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 as it 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 sole 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: **PETER C. DAMRON**
4430 ROMILY WAY
FREMONT CA 94536

cc: **OSHA LIANG LLP**
1221 MCKINNEY, SUITE 2800
HOUSTON, TX 77010

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SUITE 200
EAST PALO ALTO CA 94303

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OFFICE OF PETITIONS

In re Application of :
Puglisi, et al. :
Application No. 10/352,504 : ON PETITION
Filed: January 27, 2003 :
Attorney Docket No. STAN-253 :

This is a decision on the petition to revive under 37 CFR 1.137(b), filed December 7, 2006.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely file a proper response to the final Office action mailed April 5, 2006, which set a shortened statutory period for reply of three (3) months. Applicants filed an Amendment on October 5, 2006, made timely by obtaining a three month extension of time. However, in an Advisory Action mailed on November 2, 2006, the Examiner informed Applicants that the Amendment failed to place the application in condition for allowance. No Notice of Appeal was filed. Accordingly, the application became abandoned on

October 6, 2006. A Notice of Abandonment was mailed on December 7, 2006.

With the instant petition, petitioner submitted the required reply in the form of an RCE, paid the petition fee, and made a statement of unintentional delay.

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 matter is being forwarded to Group Art Unit 1657 for consideration of the RCE, filed December 7, 2006.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
Jeffrey W. Allison et al :
Application No. 10/352,531 : DECISION ON PETITION
Filed: January 28, 2003 : UNDER 37 CFR 1.313(c)(3)
Attorney Docket No. FCI-2678/C3267 :

This is a decision on the petition, filed September 15, 2005, under 37 CFR 1.313(c)(3) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

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

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

Frances Hicks
Petitions Examiner
Office of Petitions

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Paper No. 7

MANDEL & ADRIANO
55 SOUTH LAKE AVENUE, SUITE 710
PASADENA, CA 91101

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OFFICE OF PETITIONS

In re Application of :
Beavo et al. :
Application No. 10/352,534 : ON PETITION
Filed: January 28, 2003 :
Attorney Docket No. 30429.5USI1 :

This decision concerns the October 16, 2003 Petition under 37 CFR 1.47(a).

The petition is **DISMISSED.**

Ten inventors are named in this application which, upon filing, did not include an oath or declaration. A Notice to File Missing Parts of Nonprovisional Application was mailed on April 11, 2003, setting forth an extendable 2-month period for submitting, *inter alia*,[1] a proper oath/declaration. In response, the instant petition was filed, accompanied by a request for an extension of time,[2] the extension-of-time fee, and a "Combined Declaration and Power of Attorney" signed by 8 of the 10 named inventors ("10/16/03 Declaration").

Petition under 37 CFR 1.47(a):

The petition alleges that the non-signing inventors, Kenneth M. Ferguson ("Ferguson") and Kate Loughney ("Loughney"), through the in-house counsel of ICOS Corporation ("ICOS"), have refused to sign the application declaration; and requests that the available inventors be allowed to file this application on behalf of themselves as well as Ferguson and Loughney.[3]

---

[1] The application also did not comply with the sequence rules.

[2] An extension of 3 months was requested with a payment of $950, while 4 months are required or the application would have become expired on 9/12/03. The deficiency of $530 has been charged to Deposit Account No. 50-0306 as authorized in the petition.

[3] The instant application is a continuation-in-part (CIP) of application 10/115,515, which is a continuation of application 09/599,658, which is a continuation of application 09/055,584, which is a divisional of application 08/463,949, which in turn is a CIP of application 08/068,051 (9 inventors named). The undivided interest in application 08/068,051 has been assigned as follows: Ferguson and Loughney to ICOS (recorded at Reel/Frame 007548/0377); Joseph A. Beavo, William K. Sonnenburg and Ann Kadlecek to University of Washington (Reel/Frame 007547/0804); Jackie D. Corbin, Sharron H. Francis, Linda M. McAllister-Lucas and Melissa K. Thomas to Vanderbilt University (Reel/Frame 007547/0811); Vanderbilt University, in turn, to University of Washington (Reel/Frame 009445/0067). **ICOS and University of Washington together own an undivided 100% interest in the claimed invention. (The assignment record indicates further assignments involving inventors not named in any of these applications. Counsel should request the Assignment Branch to correct the errors.)**

The available inventors may file the application on behalf of themselves and the 2 non-signing inventors, provided that a *bona fide* attempt has been made to present to each of them, for review and signature, a copy of the entire application (specification including claims; drawings),[4] and that the latter refuse to join in this application.[5]

To show that Ferguson and Loughney have refused to join in this application despite such a *bona fide* attempt, the petition must include, *inter alia*, a statement of facts, signed by a person with **firsthand knowledge** of the facts recited therein, concerning the circumstances of the presentation of the application papers to Ferguson and Loughney at the respective last known addresses,[6] and their subsequent refusal to sign the declaration.[7]

The instant petition, signed by the outside counsel ("Counsel 1") for University of Washington, 1 of the 2 partial assignees of the claimed invention, indicates that on July 29, 2003, Counsel 1 forwarded a copy of the application to the in-house counsel ("Counsel 2") of ICOS, the other partial assignee; and that on August 29, 2003, Counsel 2 wrote to Counsel 1. According to the petition, Counsel 2's August 29, 2003 letter, in conjunction with the fact that Counsel 2 has not returned an oath/declaration signed by Ferguson and Loughney, constitutes a refusal by ICOS to provide an executed oath/declaration to Counsel 1, thus rendering the §1.47(a) petition grantable. The Office disagrees.

As noted above, a grantable §1.47(a) petition requires sufficient showing that each of **Ferguson and Loughney** has been provided with a copy of the application, and that **each of Ferguson and Loughney, rather than the assignee**, refuses to sign the application declaration. The petition has not presented any evidence establishing that each of Ferguson and Loughney has received a copy of the application, and that each of them has refused to sign the application declaration. The petition is thus dismissed. The 10/16/03 Declaration is not accepted.

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[4] MPEP section 409.03(d) (Rev.1, Feb. 2003) REFUSAL TO JOIN (A refusal . . . to sign . . . when the inventor 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 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] See MPEP section 409.03(d) (Rev. 1, Feb. 2003) (Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted . . . When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts.).

[6] 37 CFR 1.47(a); MPEP section 409.03(e) (Rev. 1, Feb. 2003).

[7] See *supra* note 4.

The Office acknowledges receipt of the $130 petition fee and the $130 surcharge for lacking a proper oath or declaration upon filing of the application.

To prevent abandonment of this application,[8] one of the following must be submitted within **TWO MONTHS** of the mailing date of this decision:[9]

(1) an oath/declaration properly signed by all inventors, including Ferguson and Loughney;[10]

or

(2) a renewed §1.47(a) petition that includes proper **statement(s)[11] of facts** establishing that a *bona fide* attempt had been made to present to each of Ferguson and Loughney, at the respective last known addresses, a copy of the entire application (specification including claims; drawings); and that Ferguson and Loughney nevertheless refused to sign the application declaration.

The renewed §1.47(a) petition must be signed by **both Counsel 1** (or any other party properly authorized by University of Washington) **and Counsel 2** (or, an officer of ICOS or any other party properly authorized by ICOS),[12] and should be addressed as follows:

by mail: Mail Stop Petitions
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

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

---

[8] See 37 CFR 1.53(f) (If an application which has been accorded a filing date . . . does not include an oath or declaration . . . pursuant to §1.63 . . . , applicant will be notified and given a period of time within which to . . . file an oath or declaration . . . to avoid abandonment).

[9] Extendable under 37 CFR 1.136(a).

[10] **An oath/declaration listing the claimed invention and/or the application number as well as the entire inventorship, but signed only by Ferguson and Loughney, is sufficient for supplementing the 10/16/03 Declaration.**

[11] **Statements based on hearsay will not be considered.**

[12] See *infra* discussion.

Computer readable form (CRF) of the sequence listing:

As indicated in the attached Raw Sequence Listing Error Summary, the CRF of the sequence listing submitted with the instant petition does not comply with the Sequence Rules. To prevent abandonment of this application, a corrected CRF of the sequence listing must also be submitted within **TWO MONTHS** of the mailing date of this decision. The 2-month period is extendable under 37 CFR 1.136(a).

Duplicate prosecution:

The August 29, 2003 letter from Counsel 2 to Counsel 1 indicates duplicate prosecution by ICOS and University of Washington with respect to the instant claimed invention, as well as potential identification of incorrect inventorship in either/both of the applications.[13]

Accordingly, to have the power of attorney included in the 10/16/03 Declaration accepted as such, a petition under 37 CFR 1.182 must be filed giving good and sufficient reasons as to why a power of attorney signed by only 8 of the 10 named inventors should be accepted.[14] Should such a petition be filed and granted, all future correspondence on the instant application, including a renewed §1.47(a) petition, **must be signed by representatives of both University of Washington and ICOS.**[15]

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

RC Tang
Petitions Attorney
Office of Petitions

Attachment: 10/21/03 Raw Sequence Listing Error Summary (courtesy copy)

---

[13] The instant application adds a 10th inventor, Sergei Rybalkin.

[14] MPEP 402.10 (Rev. 1, Feb. 2003), citing In re Goldstein, 16 U.S.P.Q.2d 1963 (Dep. Assist. Comm'r Pat. 1988) (. . . **[A] power of attorney in an application will not be accepted by the Office when signed by less than all of the applicants or owners of the application unless . . . accompanied by a petition . . . under 37 CFR 1.182 giving good and sufficient reasons as to why [the power of attorney] should be accepted . . .**).

[15] *Id.* (. . . The [grant of such a §1.182 petition] will result in more than one attorney, agent, applicant, or owner prosecuting the application at the same time. Therefore, **each of these parties must sign all subsequent replies submitted to the Office.**).

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OFFICE OF PETITIONS

In re Application of
Beavo et al.
Application No. 10/352,534
Filed: January 28, 2003
Attorney Docket No. 30429.5USI1
For: Methods And Compositions For Modulating The Activity Of PDE5

DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the renewed petition under 37 CFR 1.47(a), filed September 24, 2004.

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.

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

The original petition was filed with payment for a three month extension of time. A review of the file history indicates that the deposit account for Mandel & Adriano (50-0306) was charged the difference between the cost for a four month extension of time and the cost for a three month extension of time. Apparently, an Office employee believed a four month extension of time was necessary to make the papers timely. The Notice of Missing Parts was mailed on April 11, 2003. The Certificate of Mailing date on the petition and the accompanying papers is Tuesday, October 14, 2003. Monday, October 13, 2003, was a federal holiday. Therefore, a four month extension of time was not necessary. The sum of $530 will be credited back to the law firm's deposit account (50-0306). The Office apologizes for any inconvenience created by the error.

The "Revocation and Power of Attorney" filed by Miles & Stockbridge on June 18, 2004, will not be entered for several reasons. Fiona Willis, a Technology Manager for the University of Washington, alleges that the University owns the "entire right, title, and interest in and to" the application. However, evidence has not been presented to establish that each and every inventor has assigned their entire right to the University of Washington. Specifically, an assignment to the University from the non-signing inventors has not been provided. The papers purport to show that Paula Szoka has the authority to sign the revocation. However, the revocation is not signed by Ms. Szoka, but is instead signed by Fiona Willis. The papers which purport to give Ms. Szoka signatory authority are signed by James Severson. However, the petition fails to prove that Mr. Severson has the right to sign the papers at issue or has the right to delegate this responsibility. A courtesy copy of this decision is being mailed to the person signing the instant petition and to the other assignee. However, all future correspondence will be directed solely to the address currently of record until such time as proper papers are received to the contrary.

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

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

cc: Miles & Stockbridge
1751 Pinnacle Drive
Suite 500
McLean, VA 22102

Mr. O'Dea
Senior Patent Counsel
ICOS Corporation
22021 20th Avenue SE
Bothell, WA 98021

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. 12

Kenneth Ferguson and Kate Loughney
c/o Mr. O'Dea, Senior Patent Counsel
ICOS Corporation
22021 20th Avenue SE
Bothell, WA 98021

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NOV 22 2004

OFFICE OF PETITIONS

In re Application of
Beavo et al.
Application No. 10/352,534
Filed: January 28, 2003
Attorney Docket No. 30429.5USI1
For: Methods And Compositions For Modulating The Activity Of PDE5

Letter

Dear Mr. Ferguson and Ms. Lougney:

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

As 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 (571) 272-3203.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

cc: MANDEL & ADRIANO
55 SOUTH LAKE AVENUE
SUITE 710
PASADENA, CA 91101

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Alexandria, VA 22313-1450
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MILES & STOCKBRIDGE PC
1751 PINNACLE DRIVE, SUITE 500
MCLEAN VA 22102-3833

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JUN 17 2008

OFFICE OF PETITIONS

In re Application of :
BEAVO, et al. :
Application No. 10/352,534 :
Filed: January 28, 2003 :
Attorney Docket No. **T3713-9127US01** :

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 29, 2007.

The request is **APPROVED.**

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

The request was signed by Edward Kondracki on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

The application became abandoned for failure to timely respond to the office action mailed July 6, 2007.

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **JOSEPH A. BEAVO**
2309 NW 86TH STREET
SEATTLE, WA 98117

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JOSEPH A. BEAVO
2309 NW 86TH STREET
SEATTLE WA 98117

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JUL 15 2008

OFFICE OF PETITIONS

In re Application of :
Beavo et al. :
Application No. 10/352,534 : ON PETITION
Filed: January 28, 2003 :
Attorney Docket No. T3713-9127US01 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed June 25, 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 Response, (2) the petition fee, and (3) a proper statement of unintentional delay.

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

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

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

This matter is being referred to Technology Center 1644 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

cc:

DENNIS CLARKE & ASSOCIATES
7422 OLD MAPLE SQUARE
MCLEAN, VA 22102

Pet. Dec.

UNITED STATES PATENT AND TRADEMARK OFFICE

Technology Center 1700

JUL 14 2005

Mailed: _____

meb

Paper Number: _____

In re application of
John E. O'Gara

Serial No. 10/352,582
Filed: January 28, 2003
For: Porous Hybrid Particles With Organic Groups Removed From The Surface

DECISION ON PETITION

This is a response to the PETITION UNDER 37 C.F.R. 1.181(a) TO WITHDRAW HOLDING OF ABANDONMENT, filed June 17, 2005. The petition requests that the abandonment, as set forth in the Notice of Abandonment of May 12, 2005 for failure to timely respond to the Notice of Non-Compliant Amendment mailed August 16, 2004, be withdrawn. The petitioner asserts that the Notice of Non-Compliant Amendment mailed August 16, 2005 was not received by the applicants.

DECISION

The instant request is accepted as a timely petition under 37 C.F.R. 1.181 (no fee), and is evaluated under the procedures regarding an acceptable showing of non-receipt of an office action. See MPEP 711.03(c)(I).

The evidence presented is sufficient to establish that the Notice of Non-Compliant Amendment was not received by the petitioner. The evidence provided includes a statement by the petitioner that the Notice of Non-Compliant Amendment was not received, a statement that a search of the file and docket records was made, and a statement that the search revealed the Notice of Non-Compliant Amendment mailed August 16, 2004 was not received. Also provided is a copy of the automated docketing record and cover of the docket file, where the Notice of Non-Compliant Amendment would have been posted had it been timely received.

Therefore, the Notice of Abandonment is hereby withdrawn, and the application is returned to pending status. The application shall be forwarded to the examiner for consideration of the applicant's response to the Notice of Non-Compliant Amendment, with was concurrently filed with the petition of June 17, 2005.

The Petition is **GRANTED**.

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Peter C. Lauro
Edwards & Angell, LLP
101 Federal Street
Boston, MA 02110-1800

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ONE LIBERTY PLACE - 46TH FLOOR
PHILADELPHIA PA 19103

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OFFICE OF PETITIONS

In re Application of
Cook & Kawasaki
Application No. 10/352,586
Filed: January 28, 2003
Attorney Docket No. ISIS-5137

: DECISION ON PETITIONS
:UNDER 37 CFR §1.78(a)(3) AND
:37 CFR 1.183

This is a decision on the petition filed November 9, 2004, under 37 CFR 1.78(a)(3) requesting acceptance of an unintentionally delayed claim for benefit of two earlier filed applications -- application nos. 09/035,357, filed March 5, 1998, and PCT/US91/05720, filed August 12, 1991 -- under 35 U.S.C. § 120 and 37 CFR 1.78(a)(2) and (2) as a petition under 37 CFR 1.183 requesting waiver of 37 CFR 1.78(a)(3) as that rule operates in conjunction with 37 CFR 1.17(t)."

The petition considered under 37 CFR 1.78(a)(3) is **dismissed**.

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

WITH RESPECT TO THE PETITION UNDER 37 CFR 1.78(a)(3):

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

In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and

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

The instant petition does not comply with item (1) above.

As a preliminary matter, as set forth in MPEP 1893.03(c), page 1800-199, a national stage application filed under 35 U.S.C. § 371 may not claim benefit of the filing date of the international application of which it is the national stage since its filing date is the date of filing of that international application. *See also* MPEP 1893.03(b).

A claim of benefit to Application no. 07/835,932, the national phase application of PCT/US91/05720, was timely submitted. Therefore, an additional benefit claim to PCT/US91/05720 is inappropriate. Once a reconsideration petition is granted, the corrected filing receipt will mention that application no. 07/835,932 is a §371 application of PCT/US91/05720.

While a reference to add the prior-filed application – no. 09/035,357-- on page one following the first sentence of the specification has been included in a concurrently filed amendment; the amendment/reference is not acceptable as drafted since it improperly incorporates by reference the prior-filed application. Petitioner's attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980), where the court drew a distinction between a permissible 35 U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. The court specifically stated:

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

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

Accordingly, before the petition under 37 CFR 1.78(a)(3) can be granted, a substitute

amendment[1] deleting the incorporation by reference statement with respect to application no. 09/035,357, along with a renewed petition under 37 CFR 1.78(a)(3), is required.

As authorized, the $1,370.00 fee required by 37 CFR 1.78(a)(3)(ii) will be charged to petitioner's Deposit Account No. 23-3050.

WITH RESPECT TO WAIVER OF THE SURCHARGE REQUIRED BY 37 CFR 1.78(a)(3)(ii) AND 37 CFR 1.17(t).

Petitioner requests under 37 CFR 1.183 waiver of the applicable surcharge under 37 CFR 1.78(a)(3)(ii) for the acceptance of an unintentionally delayed claim for priority under 35 U.S.C. § 120 as set forth in 37 CFR 1.17(t). In this regard, petitioner requests waiver of the applicable fee because only minor defects existed in applicant's previous submission.

APPLICABLE RULES

37 CFR 1.78(a)(2)(i), (ii) and (iii) provides:

> (2)(i) Except for a continued prosecution application filed under § 1.53(d), any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior filed copending nonprovisional applications or international applications designating the United States of America must contain or be amended to contain a reference to each such prior 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 other related applications may be made when appropriate (see § 1.14).
>
> (ii) This reference must be submitted during the pendency of the later-filed application. If the later-filed application is an application filed under 35 U.S.C. 111(a), this reference must also be submitted within the later of four months from the actual filing date of the later-filed application or sixteen months from the filing date of the prior-filed application. If the later-filed application is a nonprovisional application which entered the national stage from an international application after compliance with 35 U.S.C. 371, this reference must also be submitted within the later of four months from the date on which the national stage commenced under 35 U.S.C. 371(b) or (f) in the later-filed international application or sixteen months

[1] *Note* 37 CFR 1.121

from the filing date of the prior-filed application. These time periods are not extendable. Except as provided in paragraph (a)(3) of this section, the failure to timely submit the reference required by 35 U.S.C. 120 and paragraph (a)(2)(i) of this section is considered a waiver of any benefit under 35 U.S.C. 120, 121, or 365(c) to such prior-filed application. The time periods in this paragraph do not apply if the later-filed application is:

(A) An application for a design patent;

(B) An application filed under 35 U.S.C. 111(a) before November 29, 2000; or

(C) A nonprovisional application which entered the national stage after compliance with 35 U.S.C. 371 from an international application filed under 35 U.S.C. 363 before November 29, 2000.

(iii) If the later-filed application is a nonprovisional application, the reference required by this paragraph must be included in an application data sheet (§ 1.76), or the specification must contain or be amended to contain such reference in the first sentence following the title.

(iv) The request for a continued prosecution application under § 1.53(d) is the specific reference required by 35 U.S.C. 120 to the prior-filed application. The identification of an application by application number under this section is the identification of every application assigned that application number necessary for a specific reference required by 35 U.S.C. 120 to every such application assigned that application number.

37 CFR 1.78(a)(2)(i), (ii) and (iii) provides:

(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.

37 CFR 1.183 states that:

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

OPINION

In order to grant any petition under 37 CFR 1.183, petitioner must show (1) that this is an extraordinary situation where (2) justice requires waiver of the rule. In re Sivertz, 227 U.S.P.Q. 255, 256 (Comm'r Pat. 1985). Petitioner has not shown that either condition exists in this case.

The circumstances of this case do not demonstrate an extraordinary situation, much less one where justice requires waiver of the rules. The failure to timely submit the claim for priority of the earlier applications within the time period set forth in 37 CFR 1.78(a)(ii) was a circumstance entirely within petitioner's control, and could have been avoided by the exercise of reasonable care and diligence. Equitable powers should not be invoked to excuse the performance of a condition by a party that has not acted with reasonable, due care and diligence. U.S. v. Lockheed Petroleum Services, 709 F.2d 1472, 1475 (Fed. Cir. 1983). Furthermore, since the USPTO did not cause or contribute to petitioner's filing delay, this case is even further removed from consideration as one where "justice requires" equitable relief. See Helfgott & Karras, P.C. v. Dickinson, 209 F.3d 1328, 54 USPQ2d 1425 (Fed. Cir. 2000).

Petitioner overlooks that his failure to timely claim the benefit of the earlier filed application under 35 U.S.C. § 120 constituted a *waiver* of his right to claim such benefit of priority. *See* 35 U.S.C. § 120 ("the Director may consider the failure to submit such [a claim] within that time period as a waiver of any benefit under this section"); 37 CFR 1.78(a)(2)(ii); *Cong. Rec.* S14719 (Nov. 17, 1999). Fortunately for petitioner, however, he may now seek reinstatement of his unintentionally waived rights, subject, however, to payment of the very surcharge of which

petitioner now complains. See 35 U.S.C. § 120, last sentence; 37 CFR 1.78(a)(3); *Cong. Rec.*, supra. That is, since petitioner now desires to be entitled to the potential benefits of the earlier application via § 120, then petitioner must also accept the consequences attendant to that action. *See* Abbott Laboratories v. Novopharm Ltd., 38 USPQ2d 1309, 1312 (D.C. N. Il. 1996), *aff'd* 104 F.3d. 1305, 41 USPQ2d 1535 (Fed. Cir. 1997).

It is well settled that a party's inadvertent failure to comply with the requirements of the rules or procedures before the USPTO is not deemed to be an extraordinary situation that would warrant waiver of the rules or procedures under 37 CFR 1.183. *See* Honigsbaum v. Lehman, 903 F. Supp. 8, 37 USPQ2d 1799 (D.D.C. 1995) (Commissioner did not abuse his discretion in refusing to waive requirements of 37 CFR 1.10(c) in order to grant filing date to patent application, where applicant failed to produce "Express Mail" customer receipt or any other evidence that application was actually deposited with USPS as "Express Mail"), *aff'd without opinion*, 95 F.3d 1166 (Fed. Cir.1996); Nitto Chemical Industry. Co., Ltd. v. Comer, 39 USPQ2d 1778, 1782 (D.D.C. 1994) (Commissioner's refusal to waive requirements of 37 CFR 1.10 in order to grant priority filing date to patent application not arbitrary and capricious, because failure to comply with the requirements of 37 CFR 1.10 is an "avoidable" oversight that could have been prevented by the exercise of ordinary care or diligence, and thus not an extraordinary situation under 37 CFR 1.183); Gustafson v. Strange, 227 USPQ 174 (Comm'r Pats. 1985) (Counsel's unawareness of 37 CFR 1.8 not extraordinary situation warranting waiver of a rule). Rather, as petitioner failed to comply with the provisions of 37 CFR 1.78(a)(2)(i), (ii) and (iii), this is not an "extraordinary situation" where "justice requires" an extraordinary remedy.

As authorized, the $130 fee for the waiver petition under 37 CFR 1.183 will be charged to petitioner's Deposit Account No. 23-3050.

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

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

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

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

Any questions concerning this matter may be directed to Petitions Attorney E. Shirene Wilis at (571) 272-3230.

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

United States Patent and Trademark Office

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OFFICE OF PETITIONS

In re Application of :
Cook & Kawasaki :
Application No. 10/352,586 :DECISION ON PETITION
Filed: January 28, 2003 :UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. ISIS-5137 :

This is a decision on the reconsideration petition under 37 CFR 1.78(a)(3), filed November 3, 2005, to accept an unintentionally delayed claim under 35 U.S.C. 120 for the benefit of priority to the prior-filed nonprovisional application (Application No. 09/035,357) 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 Director may require additional information where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional application is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. 120 to the prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

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

Any inquiries concerning this decision may be directed to the undersigned at (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 1635 for appropriate action on the amendment filed November 3, 2005, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. §120 to the prior-filed nonprovisional application.

Shirene Willis Brantley

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, Virginia 22313-1450
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WOLF GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON, MA 02210-2206

Mail Date: 04/21/2010

Applicant	: Frederic P. Field	: DECISION ON REQUEST FOR
Patent Number	: 7666194	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/352,600	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/28/2003	: 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.

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.

MARC M. WEFERS
FISH & RICHARDSON P.C.
225 FRANKLIN STREET
BOSTON, MA 02110-2804

COPY MAILED

AUG 2 5 2003

OFFICE OF PETITIONS

In re Application of :
Henry A. Hill :
Application No. 10/352,616 : NOTICE
Filed: January 28, 2003 :
Attorney Docket No. 09712-298001 / Z-396

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

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

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

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

This file is being forwarded to Technology Center 2800.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

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SEP 13 2006

OFFICE OF PETITIONS

In re Application of :
Frank Jao et al. :
Application No. 10/352,625 : ON PETITION
Filed: January 28, 2003 :
Attorney Docket No. ARC 1969 C4 :

This is a decision on the petition under 37 CFR 1.137(b)[1], filed February 16, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the final Office Action mailed July 13, 2005. A response was filed October 7, 2005, but by Advisory Action of January 26, 2006, petitioner was advised that the response did not place the application in condition for allowance. This application became abandoned on October 14, 2005. The instant petition and this decision precede the mailing of the Notice of Abandonment.

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

This matter is being referred to Technology Center 1615 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)).

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Paper No. 6

REED & EBERLE LLP
800 MENLO AVENUE, SUITE 210
MENLO PARK, CA 94025

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JUL 0 9 2003

OFFICE OF PETITIONS

In re Application of
Hawker et al.
Application No. 10/352,628
Filed: January 27, 2003
Attorney Docket No.:ARC919990096US3

ON PETITION

This is a decision on the petition filed May 27, 2003 (certificate of mailing May 21, 2003), requesting that the above-identified application be accorded a filing date of January 27, 2003.

The application was filed on January 27, 2003, claiming status as a divisional of prior application No. 09/892,234. However, on April 23, 2003, Initial Patent Examination Office mailed a "Notice of Incomplete Nonprovisional Application" stating that a filing date had **not** been granted and requiring drawings of figures 1-8 described in the specification. The "Notice" further stated that the filing date would be the date of receipt of the omitted drawings.

In response, 2 sheets of drawings, including figures 1-8, a copy of patent 6,541,865/ application 09/892,234 and the present petition were filed on May 27, 2003. The petition is accompanied by a copy of applicants' transmittal letter which includes a statement incorporating the entire disclosure of the prior application into the disclosure of the present application. In view of the incorporation by reference of the prior application, the drawings of figures 1-8 supplied on May 27, 2003, would not constitute new matter if they were part of the original disclosure of the prior application. Applicants' state that application No. 09/892,234 contains the drawings referred to in the specification of the present application and that the drawings supplied with the petition are the drawings which were not received on January 27, 2003.

Based on applicants' representation that the drawings which are described in the specification are a part of the disclosure of application No. 09/892,234 and the entire disclosure of application No. 09/892,234 was specifically incorporated by reference in the present application on January 27, 2003, it appears that the drawings were present in the Office on January 27, 2003, albeit in the file of another application, i.e., application No.09/892,234. Therefore, on petition, the application may be accorded the requested filing date.

The petition is granted.

Deposit account no. 18-0580 has been charged the $130.00 petition fee.

Of course, the primary examiner is expected to compare the

drawings supplied on May 27, 2003, to the disclosure of prior application No. 09/892,234 in order to verify that the drawings are, in fact, parts of the disclosure of the prior application.

A newly executed oath or declaration is not required under 37 CFR 1.51(b)(2) and 1.53(f) in a continuation or divisional application, provided that the specification and drawings filed in the continuation or divisional application contain no matter that would have been new matter in the prior application. See 37 CFR 1.63(d)(1). For initial processing purposes, it is presumed that the drawings filed May 27, 2003, contain no matter that would have been new matter in the prior application. Thus, the application will be processed using the copies of the declarations deposited on January 27, 2003. No surcharge is required, since the declaration was present on the January 27, 2003.

The application is being returned to Initial Patent Examination Office for further processing with a **filing date of January 27, 2003**, using the two (2) sheets of drawings supplied on May 27, 2003.

Telephone inquiries related to this decision may be directed to Petitions Attorney Charlema R. Grant at (703) 306-0251.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

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

AGILENT TECHNOLOGIES, INC.
Legal Department, DL429
Intellectual Property Administration
P.O. Box 7599
Loveland CO 80537-0599

COPY MAILED

JUN 2 3 2003

OFFICE OF PETITIONS

In re Application of
Flory
Application No. 10/352,675
Filed: January 27, 2003
Attorney Docket No. 10030031-1
For: APPARATUS AND METHOD FOR BIOPOLYMER IDENTIFICATION DURING TRANSLOCATION THROUGH A NANOPORE

ON PETITION

This is a decision on the petition filed May 6, 2003 (certificate of mailing date April 25, 2003), requesting, in effect, that the Notice of Omitted Item(s) in a Nonprovisional Application (Notice), mailed April 16, 2003, be withdrawn. The petition will be treated under 37 CFR 1.53(e).

The application was filed on January 27, 2003. However, on April 16, 2003, the Office of Initial Patent Examination mailed a Notice stating that the application had been accorded a filing date of January 27, 2003, and advising applicant that page 1 of the specification appeared to have been omitted.

In response, the present petition was filed. The petition does not allege and is not accompanied by any evidence that a page of the specification labeled "1" was present in the Office on January 27, 2003.

However, petitioner submits a copy of his itemized postcard receipt that contains an Office generated barcode affixed thereto which lists January 27, 2003 as the date of receipt of the items listed on the postcard receipt. The postcard itemizes 27 pages of specification, claims, and abstract. The date stamped postcard receipt is *prima facie* evidence that the items listed thereon were filed on January 27, 2003. MPEP 503.

A review of the application file supports this position. There are 27 pages of specification in the application file consisting of pages 2-27 and a non-numbered page.

It is obvious from the petition and the application file that page 1 was not missing on January 27, 2003. Rather, page 1 was simply unlabeled as a result of petitioner's filing error. Petitioner is reminded that 37 CFR 1.52(b)(5) requires the pages of the specification to be numbered consecutively starting with "1".

The Notice mailed April 16, 2003 was correct in stating that page 1 described in the specification appeared to have been omitted. Therefore, the "Notice" was properly mailed and will not be withdrawn. Since the present petition was not necessitated by any error on the part of the Office, the $130.00 petition fee will not be refunded.

The petition is dismissed.

A preliminary amendment adding the label "1" to the unlabeled first page of the specification should be filed prior to first action on the merits.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of January 27, 2003.

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

PAGE 2/25 * RCVD AT 12/30/2003 3:08:53 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-2/0 * DNIS:7468000 * CSID: * DURATION (mm-ss):05-46

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Art Unit	:	2859	Confirmation No.: 1743
Examiner	:	Travis M. Reis	
Applicants	:	Kenneth L. Schierbeek, Eric J. Hoekstra, Rodney K. Blank, Merdad Velseh, Gregory H. DeVette and Kenneth (NMI) Schofield	
Serial No.	:	10/352,691	
Filing Date	:	January 28, 2003	
For	:	VEHICLE COMPASS COMPENSATION	
Atty Docket No.	:	DON01 P-1054	

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

Date of this paper: ___December 30, 2003

Dear Sir:

PETITION AND FEE FOR
EXTENSION OF TIME (37 C.F.R. 1.136(a))

1. This is a petition for an extension of time to respond to the Office Action mailed July 10, 2003, for a period of two (2) months.

2. Applicant is:

___ a small entity
___ verified statement attached
___ verified statement filed

_X_ other than small entity

3.

Extension (months)		Fee for other than small entity	Fee for small entity
___	one month	$ 110.00	$ 55.00
___	two months	$ 420.00	$210.00
_X_	three months	$ 950.00	$475.00
___	four months	$1,480.00	$740.00

4. An amendment:

_X_ is filed herewith ___ has been filed

5. Fee Payment:

___ Attached is a check in the amount of $_____.

_X_ Please charge the fee due of $950 and any additional fees required to Deposit Account No. 22-0190.

VAN DYKE, GARDNER, LINN & BURKHART, LLP

Frederick S. Burkhart
Registration No. 29 288
Post Office Box 888695
Grand Rapids, Michigan 49588-8695
(616) 988-4104

02/12/2004 PWALKER 00000001 220190 10352691
01 FC:1253 950.00 DA
FSB:dlf

DEC-30-2003 15:16 FROM: TO:17033057687---0061 P.2

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 09-22-08

TO SPE OF : ART UNIT 2859

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/352691 Patent No.: 6922902

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: Denied. The proposed changes, revert the claim back to the status before the allowance, see claim 1 for example.

/Jinhee J. Lee/ — **SPE**

2841 — **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

Date : December 11, 2009

Patent No. :6922902
Inventor :10/352691
Patent Issued :August 2, 2005
Title :VEHICLE COMPASS COMPENSATION

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.

Inspection of the application for the patent reveals that in connection with the alleged errors; the corrections as proposed are unwarranted as the proposed changes, revert the claim back to the status before the allowance. See claim 1. Accordingly, there being no fault on the part of the Patent and Trademark Office, it has no authority to a issue certificate of correction under the provisions of 35 U.S.C. 254 and Rule 322 and 323 of the Rules of Practice of the United States Patent and Trademark Office in Patent Cases.

In view of the foregoing applicants request in this matter is hereby denied. Any telephone inquiry concerning this communication should be directed to Ms. A. Green at (703) 756-1541.

Mary Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(703) 756-1580 or (703) 756-1541

Van Dyke, Gardner, Linn &Burkhart, LLP
2851 Charlevoix Drive,
Ste 207
Grand Rapids, MI 49588-8695

/arg

UNITED STATES PATENT AND TRADEMARK OFFICE

Pet. Dec.

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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NE

Mailed: JUL 14 2005

In re application of
Patno et al.
Serial No. 10/352,714
Filed: January 27, 2003
For: HYBRIDIZATION DEVICE AND METHOD

DECISION ON PETITION

This is a response to the PETITION TO WITHDRAW HOLDING OF ABANDONMENT filed September 1, 2004. The petition requests that the abandonment, as set forth in the Notice of Abandonment of July 27, 2004, for failure to timely file a proper reply to the Office letter mailed December 30, 2003, be withdrawn since applicants did timely file a reply on March 30, 2004.

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 evidence presented reveals that applicant's response, the paper entitled RESPONSE, was properly filed on March 30, 2004 as evidenced by the Express Mail label. The evidence provided includes an Express Mail Label dated March 30, 2004, USPS Track Confirmation sheet dated March 30, 2004, and the USPTO return postcard receipt. Accordingly, any holding of abandonment for failure to timely file a proper reply to the Office letter mailed December 30, 2003 is hereby vacated, and the application is returned to pending status.

The application shall be forwarded to the examiner for entry and processing of the RESPONSE originally filed March 30, 2004.

The Petition is **GRANTED**.

JStone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

McDONNELL BOEHEN HULBERT & BERGHOFF LLP
300 South Wacker Drive
Chicago, Illinois 60606

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

JUL 7 2003

PAPER NO. 3

In re Application of	:	
William C. Johnson	:	
Serial No:10/352,715	:	PETITION UNDER
Filed: January 28, 2003	:	M.P.E.P. 708.02, IV
For: SYSTEM TO SAVE AND RECYCLE DOMESTIC WATER	:	

This is in response to the petition filed March 17, 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 based on applicant's state of health 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

William M. Selenke
28 DeWitt Street
Cincinnati, OH 45218

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,679,150	2004-01-20	10/352,732	2003-01-27	FAS-002-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	/Kang S. Lim/	Date (YYYY-MM-DD)	2009-04-23
Name	Kang S. Lim	Registration Number	37491

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 6679150
Issue Date: January 20,2004
Application No. 10352732
Filed: January 27,2003
Attorney Docket No. FAS-002-US

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

This is a decision on the electronic petition, filed April 23,2009 ,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 April 23,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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AUG 24 2007

OFFICE OF PETITIONS

FERNANDEZ & ASSOCIATES, LLP
PO BOX D
MENLO PARK, CA 94026-6402

In re Application of :
Jeffrey C. Yen :
Application No. 10/352,740 : DECISION ON PETITION
Filed: January 27, 2003 : TO WITHDRAW
Attorney Docket No. INPHI-P059 : 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 11, 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 Dennis S. Fernandez on behalf of all attorneys of record who are associated with this application.

All attorneys/agents associated with this application have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

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

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must

have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

There are no pending Office actions at the present time.

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: JEFFREY C. YEN
5935 FREMONT CIRCLE
CAMARILLO, CA 93012

cc: JOHN.GUNTHER
SOCAL IP LAW GROUP, LLP
310 N. WESTLAKE BLVD.
SUITE 120
WESTLAKE VILLAGE, CA 91362

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
10/352,740	01/27/2003	Jeffrey C. Yen	INPHI-P059

CONFIRMATION NO. 8070

Fernandez & Associates, LLP
PO Box D
Menlo Park, CA 94026-6402

OC000000025528814

Date Mailed: 08/23/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/11/2007.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

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SoCAL IP LAW GROUP LLP
310 N. WESTLAKE BLVD., STE. 120
WEATLAKE VILLAGE CA 91362

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DEC 09 2008

In re Application of	:	
Jeffrey C. Yen	:	
Application No. 10/352,740	:	DECISION ON PETITION
Filed: January 27, 2003	:	
Attorney Docket No. 1018-P07092US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 6, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the nonfinal rejection mailed February 19, 2008, is accepted as having been unintentionally delayed.

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

This application is being referred to Technology Center AU 2416 for appropriate action by the Examiner in the normal course of business on the reply received October 6, 2008.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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P.O. Box 1450
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FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW CA 94041

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JUL 14 2009

OFFICE OF PETITIONS

In re Application of :
Ramchandani et al. :
Application No. 10/352,750 : DECISION ON PETITION
Filed: January 27, 2003 :
Attorney Docket No. NOV1P002 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 10, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This above-identified application became abandoned for failure to timely file a reply to a Restriction Requirement mailed June 27, 2008. The Office Action set a one (1) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on July 28, 2008. A Notice of Abandonment was mailed on January 23, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a reply to the restriction requirement, (2) the petition fee of $810.00, and (3) a 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.

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

This application is being referred to Technology Center AU 3622 for appropriate action by the Examiner in the normal course of business on the reply received

Charlema Grant
Petitions Attorney
Office of Petitions

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SIEMENS CORPORATION
ATTN: ELSA KELLER, LEGAL ADMINISTRATOR
INTELLECTUAL PROPERTY DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN NJ 08830

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OFFICE OF PETITIONS

In re Application of :
Michelle Marie Svatos :
Application No. 10/352,756 : ON PETITION
Filed: January 27, 2003 :
Attorney Docket No.: 2002P12617US :

This is a decision on the petition filed January 19, 2006 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed December 1, 2004. A shortened statutory period of three months was set for replying to the non-Final Office Action. No extensions of time having been requested prior to the expiration of the application, this application became abandoned March 2, 2005. Accordingly, the Notice of Abandonment was mailed September 20, 2005.

The record reveals that a three month extension of time was filed with the instant petition, however, pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the $1020.00 extension of time fee submitted with the petition on January 19, 2006, was subsequent to the maximum period obtainable for reply, this fee is unnecessary and

---

[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)).

will be credited to counsel's deposit account no. 19-2179.

This matter is being referred to Technology Center 2882 for appropriate action on the amendment filed January 19, 2006.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

OGNJAN V. SHENTOV
PENNIE & EDMONDS LLP
1155 AVENUE OF THE AMERICAS
NEW YORK, NY 10036

In re Application of
Manfred Prammer
Application No. 10/352,763
Filed: January 28, 2003
Attorney Docket No. 7420-114-999

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.

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

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

Effective December 1, 2003, the Office of Petitions can no longer receive hand-carried correspondence, or facsimile transmissions of correspondence. The centralized location for hand-carried correspondence is the Customer Window located at:

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

The centralized facsimile number is **(703) 872-9306.**

This file is being forwarded to Technology Center AU 2862.

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/352,771	01/27/2003	Lars Kaufmann	102063.56886US	5812

23911 7590 05/29/2008
CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON, DC 20044-4300

EXAMINER	
WALKER, KEITH D	

ART UNIT	PAPER NUMBER
1795	

MAIL DATE	DELIVERY MODE
05/29/2008	PAPER

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

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

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Mailed: 5-29-08

In re application of :
Lars Kaufmann : DECISION ON
Serial No. 10/352,771 : PETITION
Filed: January 27, 2003 :
For: METHOD AND APPARATUS FOR SUPPLYING AN OXIDANT STREAM TO THE CATHODE OF A FUEL CELL

This is a decision on the PETITION UNDER 37 CFR 1.144 TO WITHDRAW THE RESTRICTION REQUIREMENT made final in the office action mailed August 6, 2007.

On January 24, 2007, the examiner stated that newly presented claim 13 is directed to an invention that is distinct from the invention originally claimed and withdrew the claim from consideration because Applicant had made an election by original presentation. Applicant traversed the restriction requirement in a response filed on April 24, 2007. The examiner maintained the requirement in the office action mailed August 6, 2007.

On October 31, 2007, the instant petition under 37 CFR 1.144 was timely filed to formally request that the examiner withdraw the restriction requirement.

Applicant's position for the withdrawal of the restriction requirement is that the examiner has not shown that the separate groups are distinct and that there is no serious burden on the examiner to consider the withdrawn claim.

DECISION

In the office action of January 24, 2007, the examiner stated that the newly added method claim 13 is directed to an invention that is distinct from the originally claimed invention drawn to the apparatus because the apparatus can be operated in a different manner than that claimed in the method claim. The examiner states that the oxidant exhaust stream does not have to be recirculated. In Applicant's response on April 24, 2007, Applicant argues that such operation would constitute a major departure from and modification of the apparatus as claimed. Applicant argues that it is not possible to operate the invention as defined in examined apparatus claim 1 or 14 without operation of an oxidant return line and recirculation of oxidant exhaust gas.

In the office action mailed on August 6, 2007, the examiner fails to address any of the arguments set forth by Applicant. Instead, the examiner repeats the restriction requirement and withdrawal

of the claim from consideration. The examiner also states that the method does not include all the limitations required for the apparatus, such as the discharge outlet and a throttle device.

In the petition filed on October 31, 2007, Applicant reiterates the arguments made in the earlier response and also states that there is no serious burden on the examiner to consider claim 13 (whose substance parallels that of claims 1 and 14) and that the restriction requirement has not established distinctness.

Section 803 of the MPEP states:

803 Restriction - When Proper

Under the statute, the claims of an application may properly be required to be restricted to one of two or more claimed inventions only if they are able to support separate patents and they are either independent or distinct.

If the search and examination of all the claims in an application can be made without serious burden, the examiner must examine them on the merits, even though they include claims to independent or distinct inventions.

Applicant's argument that the examiner has not shown distinctness between the apparatus and method claims is persuasive. Contrary to the examiner's assertion, the apparatus as claimed cannot be operated differently from that recited in the method claim and requires recirculation of the oxidant exhaust stream.

Additionally, the examiner has not established that any serious burden exists to examine all of the claims as required by MPEP Section 803. The examiner's statement that the method does not include all the limitations required for the apparatus, such as the discharge outlet and a throttle device in the office action mailed on August 6, 2007 demonstrates the lack of burden to also search the method claims.

Accordingly, the restriction requirement is improper and should be withdrawn. The instant petition is **GRANTED.** This application is being forwarded to the examiner to consider the Request for Continued Examination filed on October 31, 2007. The examiner is directed to withdraw the restriction requirement and prepare a new office action including an examination of claim 13 on the merits.

__/JACQUELINE STONE/___
Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON DC 20044-4300

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EDELL, SHAPIRO & FINNAN, LLC
1901 RESEARCH BOULEVARD
SUITE 400
ROCKVILLE, MD 20850

Mail Date: 08/03/2010

Applicant	: Hang Li	: DECISION ON REQUEST FOR
Patent Number	: 7656936	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/352,774	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/28/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **2089** 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

TOWNSEND & TOWNSEND & CREW LLP
TWO EMBARCADERO CENTER, 8TH FLOOR
SAN FRANCISCO, CA 94111

In re Application of :
Millind Mittal, et. al :
Application No. 10/352,800 : DECISION ON PETITION
Filed: January 27, 2003 : TO WITHDRAW
Attorney Docket No. NX-6 : 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 21, 2006.

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

A review of the file record indicates that the power of attorney TOWNSEND & TOWNSEND & CREW LLP has been revoked by the assignee of the patent application on August 25, 2006. Accordingly, the request to withdraw under 37 CFR 1.36(b) is moot.

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

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

Carl Friedman
Petitions Examiner
Office of Petitions

cc: MARK A LAUER
6601 KOLL CENTER PARKWAY
SUITE 245
PLEASANTON CA 94566

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : March 19,2008

TO SPE OF : ART UNIT 1794

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/352,803 Patent No.: 7297390 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: _____

_____

_____

_____

_____

_____ 1794
SPE **Art Unit**

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Hsiu Chu Hsu Li
Hsin Chuang
P.O. Box 4-67
Taipei 242 TW TAIWAN

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OFFICE OF PETITIONS

In re Application of :
Hsiu Chu Hsu Li :
Application No.10/352,807 : ON PETITION
Filed: January 25, 2003 :
Attorney Docket Number: AAY2 :
Title of Invention: Support Device For Attaching :
Objects to Vehicle :

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

This application became abandoned for failure to timely submit the issue and publication fees, as required by the Notice of Allowance and Fee (s) Due which was mailed December 9, 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 March 10, 2004. A Notice of Abandonment was mailed on April 26, 2004.

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

A blank copy of a Fee transmittal form (PTOL-85) is enclosed. If the petitioner desires to have the information normally found printed on the patent, the attached blank Fee Transmittal Form should be completed and returned to the **Office of Patent Publication**, within **ONE MONTH** from the mail date of this decision.

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

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

Charlema R. Grant
Petitions Attorney
Office of Petitions

enclosure

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A. BURGESS LOWE
101 EAST MAPLE STREET
NORTH CANTON, OH 44720

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OFFICE OF PETITIONS

In re Application of :
GORDON, et al. :
Application No. 10/352,822 : DECISION GRANTING PETITION
Filed: January 28, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 2618 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed December 15, 2006, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 24, 2006 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Monica A. Graves at (571) 272-7253.

This application is being referred to Technology Center AU 2832 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

[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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DOERNER, SAUNDERS, DANIEL & ANDERSON, LLP
ONE LEADERSHIP SQUARE, 211 N. ROBINSON AVENUE
SUITE 501
OKLAHOMA CITY OK 73102

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JAN 0 5 2007

OFFICE OF PETITIONS

In re Application of	:	
Williams, George Roger	:	
Application No. 10/352,837	:	ON PETITION
Filed: January 28, 2003	:	
Attorney Docket No. 23-00061-07	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed July 13, 2006, to revive the above-identified application.

The petition is **GRANTED.**

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

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $510.00 extension of time fee submitted with the petition on July 13, 2006, was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account as authorized.

This matter is being referred to Technology Center 3700 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

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

Liana Walsh
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

SAWYER LAW GROUP LLP
P.O. BOX 51418
PALO ALTO CA 94303

In re Application of :
Richard J. Abraham :
Application No. 10/352,841 : DECISION GRANTING PETITION
Filed: January 27, 2003 : UNDER 37 CFR 1.137(b)
Attorney Docket No. LDL2001-CIPA :

This is a decision on the petition under 37 CFR 1.137(b), filed June 5, 2006, to revive the above-identified application.

The petition is **GRANTED**.

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

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

This matter is being referred to Technology Center AU 3611

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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BURNS, DOANE, SWECKER & MATHIS, L.L.P.
P.O. BOX 1404
ALEXANDRIA, VA 23313-1404

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OFFICE OF PETITIONS

In re Application of :
Takahiro Ishizuka, et al. :
Application No. 10/352,860 : ON PETITION
Filed: January 29, 2003 :
Attorney Docket No.: 019519-380 :

This is a decision on the petition, filed June 8, 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 24, 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 1711 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, NW
WASHINGTON DC 20037-3213

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APR 22 2005

OFFICE OF PETITIONS

In re Application of :
Kohei Kitahara :
Application No. 10/352,874 : ON PETITION
Filed: January 29, 2003 :
Attorney Docket No. Q74004 :

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 11, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2853 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

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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SUGHRUE MION
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

COPY MAILED

JAN 27 2006

OFFICE OF PETITIONS

In re Patent No. 6,929,354 :
Issue Date: August 16, 2005 :
Application No. 10/352,874 : ON PETITION
Filed: January 29, 2003 :
Attorney Docket No. Q74004 :

This is a decision on the petition under 37 CFR 3.81(b), filed November 14, 2005, to accept the correction of the assignee on the front page of the above-identified patent.

The petition is **dismissed**.

Petitioner states that the assignee information was inadvertently omitted on the PTOL-85B form and now requests that a Certificate of Correction be issued naming "Seiko Epson Corporation, Tokyo (JP)" on the patent.

A review of U.S. Patent and Trademark Office PALM computer database assignment records do not reflect that an assignment in the name of the assignee sought by the certificate of correction was ever recorded. The petition accompanies the reel and frame number for Application No. 08/110,995. It is noted that the Certificate of Correction also requests to correct the claim benefit for the earlier applications. The only avenue of relief is by way of a petition under 37 CFR 1.78(a)(3). See MPEP 1408.03.

Accordingly, if petitioner desires to have the assignee data corrected on the front page of the Letters Patent, petitioner should submit a request for reconsideration under 37 CFR 3.81(b), along with a petition under 37 CFR 1.78(a)(3) (and fee).

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

By mail: Mail Stop PETITIONS

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

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

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

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

Wan Laymon
Petitions Examiner
Office of Petitions

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

SUGHRUE MION, PLLC
2100 Pennsylvania Avenue, NW
Washington DC 20037-3213

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SEP 2 7 2007

OFFICE OF PETITIONS

In re Patent No. 6,929,354
Issue Date: August 16, 2005
Application No. 10/352,874
Filed: January 29, 2003
Attorney Docket No. Q74004

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3) AND
: 37 CFR 3.81(b)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed February 28, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition and in a certificate of correction. This is also a petition under 37 CFR 1.183, filed February 28, 2007, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee's name on the front page of the above-identified patent by way of the certificate of correction.

The petitions are **GRANTED**.

Petition Under 37 CFR 1.78

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.

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

All the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed. 37 CFR 1.78(a)(3) requires a statement that the entire delay between the date of the claim was due under 37 CFR 1.78(a)(2)(**ii**) and the date the claim was filed was unintentional. Since the statement appearing in the petition varies from the language required by 37 CFR 1.78, the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition. This decision granting the late claim to priority ratifies the certificate of correction issued on April 17, 2007, which includes the corrected late claim to the prior applications.

The granting of the petition to accept the delayed benefit claim to the prior-filed application(s) under 37 CFR 1.78(a)(3) should not be construed as meaning that the application is entitled to the benefit of the prior-filed application(s). In order for the application to be entitled to the benefit of the prior-filed application(s), all other requirements under 35 U.S.C. §§ 120 and 365(c) 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 application, accompanies this decision on petition.

Petition Under 37 CFR 3.81(b)

Petitioner states that the correct assignee's name is Seiko Epson Corporation and that the assignee's name was inadvertently not included on the Fee(s) Transmittal form PTOL-85(b) at the time of payment of the issue fee. The request was accompanied by a certificate of correction (and fee) as required by 3.81(b). Further, Office assignment records reflect that Seiko Epson Corporation is the assignee of record for U.S. Application No. 08/110,955. By petition under 37 CFR 1.78 for a late claim priority, which has been granted as indicated above, the instant patent has claimed priority to U.S. Application No. 08/110,955. As MPEP 306 discusses, the assignment recorded against an original application is applied to division or continuation applications. Accordingly, the grant of petition under 37 CFR 3.81(b) hereby ratifies the issuance of the Certificate of Correction of April 17, 2007.

Inquiries concerning this decision should be directed to Denise Pothier at (571) 272-4787. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

Frances Hicks
Lead Paralegal
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/352,874	01/29/2003	2853	1050	Q74004	3	1

CONFIRMATION NO. 9906

SUGHRUE MION, PLLC
2100 Pennsylvania Avenue, NW
Washington, DC 20037-3213

CORRECTED FILING RECEIPT

OC000000026050345

Date Mailed: 09/27/2007

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)

Kohei Kitahara, Nagano, JAPAN;

Assignment For Published Patent Application

SEIKO EPSON CORPORATION

Power of Attorney:

Terrance Wikberg--47177

Domestic Priority data as claimed by applicant

This application is a CON of 09/603,377 06/26/2000 PAT 6,601,949
which is a DIV of 08/773,259 12/23/1996 PAT 6,270,203
which is a CON of 08/396,775 03/01/1995 ABN
which is a DIV of 08/110,955 08/24/1993 ABN

Foreign Applications

JAPAN P. HEI. 4-227503 08/26/1992
JAPAN P. HEI. 4-273149 10/12/1992
JAPAN P. HEI. 4-334592 12/15/1992
JAPAN P. HEI. 5-80070 03/15/1993
JAPAN P.HEI.4-227503 08/26/1992
JAPAN P.HEI.4-334592 12/15/1992
JAPAN P.HEI.5-80070 03/15/1993

If Required, Foreign Filing License Granted: 03/07/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is
US10/352,874

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

MULTI-LAYER INK JET RECORDING HEAD AND MANUFACTURING METHOD THEREFOR

Preliminary Class

347

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

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

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

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

NOT GRANTED

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

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SUITE 800
WASHINGTON DC 20037

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APR 13 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of
Masaru Kuribayashi et al
Application No. 10/352,875
Filed: January 29, 2003
Attorney Docket No. Q73933

This is a decision on the petition, filed April 12, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on March 4, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

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

Karen Creasy

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

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

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BURNS, DOANE,
SWECKER & MATHIS, L.L.P.
P.O. Box 1404
Alexandria, VA 22313-1404

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MAR 2 0 2006

OFFICE OF PETITIONS

In re Application of :
Seyler et al. :
Application No. 10/352,884 :
Filed: January 29, 2003 : ON PETITION
Title of Invention: :
MULTILAYER PIPE :

This is a decision on the Request to Rescind Notice of Abandonment, filed June 10, 2005, and supplemented February 1, 2006. The petition is properly treated as a petition to withdraw the holding of abandonment under 37 CFR § 1.181.

The petition is **granted.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to file Missing Parts of Nonprovisional Application ("Notice"), mailed March 20, 2003. The Notice set a reply period of two (2) months. Extensions of time under 37 CFR 1.136(a) were available. No reply having been received, the application became abandoned on May 21, 2003.

Applicant's Assertion

Applicant responds with the instant petition wherein Applicant avers that a timely reply was filed on May 2, 2003, and was received by this Office as evidenced by Applicant's return-receipt postcard. In support of this assertion, Applicant provides a copy of a return-receipt postcard. A review of the return-receipt postcard reveals that it acknowledges receipt of a Transmittal Letter for Missing Parts of Application; an Executed Declaration/Power of Attorney, and a check for $130.00. Applicant has resubmitted copies of the Executed Declaration/Power of Attorney.

Applicable Law, Rules and MPEP

A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the PTO of all items listed thereon by the PTO." MPEP § 503.

Also, a review of the application file reveals that this Office received $130.00 and $40.00 on May 2, 2003, and coded the payments as surcharge late filing fee oath or declaration, and fee for recording assignment respectively.

Accordingly, the petition is granted.

No petition fee has been charged and none is due.

The application file is being referred to the Office of Initial Patent Examination for continued processing in due course.

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

Derek L. Woods
Attorney
Office of Petitions
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

JAN 25 2005

Standley Law Group LLP
495 Metro Place South
Suite 210
Dublin, OH 43017

In re Application of	:	DECISION ON PETITION
Jeffrey L. Doddroe et al	:	37 CFR 1.181
Serial No. : 10/352,902	:	
Filed : January 29, 2003	:	
For : Prosthetic Foot Having Shock Absorption	:	

This is decision is in response to applicant's "Petition Under 37 C.F.R. § 1.181" filed April 21, 2004 invoking the Commissioner's supervisory authority to require the examiner to consider the references cited in an Information Disclosure Statement (IDS) filed January 29, 2003.

The petition is dismissed as being moot.

A review of the file reveals that the IDS filed January 29, 2003 (a copy of which was resubmitted with the instant petition) has been considered by the Examiner as evidenced by the attached copy of Form PTO-1449. Form PTO-1449 shows that the examiner considered the IDS on September 8, 2004. However, the record is not clear if a copy of Form PTO-1449 showing consideration by the examiner was ever forwarded to applicant. Accordingly, a copy of Form PTO-1449 is attached for applicant's records.

Richard A. Bertsch, Director
Technology Center 3700
Phone: (571) 272-3750

Attachment: copy of Form PTO-1449 signed by examiner on September 8, 2004.

ak/01/24/05

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Paper No. 4

JOE MCKINNEY MUNCY
BIRCH STEWART KOLASCH & BIRCH LLP
P. O. Box 747
Falls Church, VA 22040-0747

COPY MAILED

FEB 19 2004

OFFICE OF PETITIONS

In re Application of :
Yu-Chou Lee et al :
Application No. 10/352,937 : NOTICE
Filed: January 29, 2003 :
Attorney Docket No. 4444-0106P

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 2822.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : July 13, 2006

TO SPE OF : ART UNIT 3711

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/352940 Patent No.: 7,011,290

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

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

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

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

_____

_____

_____

_____

_____ SPE

3711 Art Unit

(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : **7,001,290 B2**

DATED : **Feb. 21, 2006**

INVENTOR(S) : **Mower et al.**

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

Column 2
Line 53, change "attached" to --attaching--
Line 66, after "opening", change "Is" to --is--

Column 5
Line 44, change "limits" to --limit--

Column 9
Line 12, remove [34]
Line 13, remove [34]

Column 13
Line 18, change "includes" to --include--

MAILING ADDRESS OF SENDER (Please do not use customer number

Richard C. Gilmore
WORKMAN NYDEGGER
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, Utah 84111

PATENT NO. 7,001,290 B2

No. of additional copies

→ 0

JUL 05 2006

P15/REV03

SCAN! **Please forward case and paper to address shown below.**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/12/07

TO SPE OF : ART UNIT 1742

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/352968 Patent No.: 7048839

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

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

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

HENRY RANDALL
Certificates of Correction Branch
703-308-9390 ext. _____

Thank You For Your Assistance

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

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

Comments: _____

Roy Van Cing
SPE

1742
Art Unit

Staple Here Only

PRINTER'S TRIM LINE

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

APPLICATION NO.: 10/352,968

PATENT NO. : 7,048,839 B2

DATED : May 23, 2006

INVENTOR(S): Hiroyuki HARADA

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

TITLE PAGE,

Item "(30) Foreign Application Priority Data", change application number "2002-077314" to - - 2002-077344 - -.

UNITED STATES PATENT AND TRADEMARK OFFICE

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BELL, BOYD & LLOYD LLP
P.O. BOX 1135
CHICAGO IL 60690

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SEP 18 2008

In re Application of	:	
John Border, et al.	:	
Application No. 10/352,992	:	ON PETITION
Filed: January 28, 2003	:	
Attorney Docket No. 115426-926	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 2, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, January 17, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on April 18, 2007. The Notice of Abandonment was mailed August 23, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,540; and (3) an adequate statement of unintentional delay.

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

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

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

The application file is being referred to Technology Center AU 2616 for appropriate action on the concurrently filed amendment.

Chris Bottorff
Petitions Examiner
Office of Petitions

cc: **Phouphanomketh Dithavong**
918 Prince Street
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
www.uspto.gov
DIW 01-05

REED SMITH LLP
3110 FAIRVIEW PARK DRIVE, SUITE 1400
FALLS CHURCH VA 22042

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OFFICE OF PETITIONS

In re Patent No. 6,809,578	:	
Issued: 26 October, 2004	:	
Application No. 10/353,013	:	ON PETITION
Filed: 29 January, 2003	:	
Attorney Docket No. HITA.0315	:	

This is a decision on the petition under 37 CFR 1.183 filed on 1 November, 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**.

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

Telephone inquiries regarding this communication should be directed to the undersigned at 571.272.3231.

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
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MARSHALL, GERSTEIN & BORUN LLP
233 S. WACKER DRIVE, SUITE 6300
SEARS TOWER
CHICAGO, IL 60606

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MAY 2 1 2008

OFFICE OF PETITIONS

In re Application of :
Boris A. MASLOV et al. :
Application No. 10/353,067 : DECISION ON PETITION
Filed: January 29, 2003 :
Attorney Docket No. **28944/42304** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 25, 2007 and supplemental petition filed November 02, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed February 08, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on May 09, 2007.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee of 1,540; and 3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office action of February 08, 2007 is accepted as having been unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,050.00 extension of time fee submitted with the petition on October 25, 2007 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at (571) 272-4231.

The application is being referred to the Technology Center AU 2837 for appropriate action on the concurrently filed amendment.

Michelle R. Eason
Paralegal Specialist
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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MILLEN WHITE ZELANO & BRANIGAN PC
2200 CLARENDON BLVD, SUITE 1400
ARLINGTON, VA 22201

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FEB 2 8 2005

OFFICE OF PETITIONS

In re Application of :
Richard A. Couch et al :
Application No. 10/353,073 : ON PETITION
Filed: January 29, 2003 :
Attorney Docket No. PHARMA-66 :

This is a decision on the petition, filed February 25, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 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 Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 1615 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Amendment.

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

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

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P.O. Box 1450
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MILLEN WHITE ZELANO & BRANIGAN PC
2200 CLARENDON BOULEVARD
SUITE 1400
ARLINGTON, VA 22201

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MAR 2 1 2005

OFFICE OF PETITIONS

In re Application of :
Richard A. Couch et al :
Application No. 10/353,073 : DECISION GRANTING PETITION
Filed: January 29, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. PHARMA-66 :

This is a decision on the petition, filed March 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 March 16, 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 1615 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

---

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

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Alexandria, VA 22313-1450
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FISH & RICHARDSON P.C.
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

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OFFICE OF PETITIONS

In re Application of :
Janusz A. Kuzma :
Application No. 10/353,101 : DECISION ON PETITION
Filed: January 27, 2003 : TO WITHDRAW
Attorney Docket No. 23845-033002/05-00450-04 : 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 8, 2008.

The request is **NOT APPROVED**.

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

The request to withdraw less than all attorneys appointed by customer number 26202 cannot be approved. The addition and/or deletion of a practitioner from the list of practitioners associated with a Customer Number should be made by submitting a "Request for Customer Number Data Change" (PTO/SB/124) which will result in the addition or deletion of such practitioner from the list of persons authorized to represent any applicant or assignee of the entire interest who appointed all of the practitioners associated with such Customer Number. See MPEP 403 Section I. Customer Number Practice.

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

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

April M. Wise
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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EXXOMMOBIL Research and
Engineering Company
PO Box 900
Annandale, NJ 08801-0900

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OFFICE OF PETITIONS

In re Application of :
Buzdygon and Galiano-Roth :
Application No.: 10/353,109 : ON PETITION
Filed: January 28, 2003 :
Attorney Docket No: JAZ-0301 :

This is a decision on the petition under 37 CFR §1.137(b), June 24, 2004, to revive the above-identified application.

The petition is dismissed and the decision mailed August 3, 2004, is vacated.

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

This application became abandoned for failure to respond in a timely manner to the non-final Office action mailed November 18, 2003. The notice set a shortened statutory period for reply of three months from its mailing date. No response was received within the allowable period, and the application became abandoned on February 19, 2004.

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

(1) the required reply, unless previously filed. In a non-provisional 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 require additional information where there is a question whether the delay was unintentional; and

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

The instant petition does not satisfy the requirements of item (2) above.

Petitioner is advised that when an attempt was made to charge deposit account 05-1330 for the petition fee under the authorization of Charles Brumlick, the finance administrator could not charge the deposit account because Mr. Brumlick is not listed as an authorized user of the account. Mr. Brumlick's authorization was found on the application transmittal sheet. It should also be noted that the petition does not provide an authorization to charge deposit account 05-1330 for the petition fee; it only authorizes a fee associated with the Office action or an issue fee to be charged. Petitioner is advised that the fee for the instant petition is $1,330.00. Any renewed petition should be accompanied by the fee in the form of a check or an authorization to charge a deposit account given by an authorized user or said account.

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

By mail: Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

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

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

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
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EXXONMOBIL RESEARCH AND
ENGINEERING COMPANY
P.O. Box 900
Annandale, NJ 08801-0900

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OFFICE OF PETITIONS

In re Application of

Buzdygon and Galiano-Roth

Application No. 10/353,109

Filed: January 28, 2003

Attorney Docket No. JAZ-0301

DECISION ON PETITION

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

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the non-final Office action mailed November 18, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time were obtained within the allowable period. Accordingly, the application became abandoned on February 19, 2004. A petition under 37 CFR 1.137(b) was filed on June 24, 2004, but was dismissed by a decision mailed August 5, 2004.

Petitioner is advised that the fee for the instant petition filed under 37 CFR 1.137(b) is $1,330.00. The petition fee will be charged to deposit account 05-1330 pursuant to an authorization found on the application transmittal sheet.

The application is being forwarded to Technology Center 1700 for further processing.

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

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
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OFFICE OF PETITIONS

BAMBI FAIVRE WALTERS
PO BOX 5743
WILLIAMSBURG VA 23188

In re Application of :
Wellons, et al. : DECISION ON PETITION
Application No. 10/353,126 :
Filed: January 27, 2003 :
Atty. Dkt. No.: BLS02524 :

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

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from 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 December 9, 2005 for failure to timely reply to the non-final Office action mailed September 8, 2005. The non-final Office action set a three (3) month shortened statutory period of time for reply. No petition for extension of time was timely submitted. Notice of Abandonment was mailed July 5, 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 Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

The present petition lacks requirement (3) above. Petitioners have failed to present a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable.

Application No. 10/353,126

The Office may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Commissioner to have been "unavoidable." See, 37 CFR 1.137(a)(3). Decisions on reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887)(the term "unavoidable" "is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business"); In re Mattullath, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). A petition to revive an application as unavoidably abandoned cannot be granted where petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay. Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (N.D. Ind. 1987).

Petitioners attribute the failure to timely reply to the non-final Office action to the Office's failure to effect a change in attorney docket number for U.S. App. No. 10/351,801 which resulted in the non-final Office action mailed September 8, 2005 being incorrectly docketed by petitioners for U.S. App. No. 10/351,801.

In accordance with MPEP 711.03(c), "[a] delay resulting from an error (e.g., a docketing error) on the part of an employee in the performance of a clerical function may provide the basis for a showing of "unavoidable" delay, provided it is shown that: (1) the error was the cause of the delay at issue; (2) there was in place a business routine for performing the clerical function that could reasonably be relied upon to avoid errors in its performance; and (3) the employee was sufficiently trained and experienced with regard to the function and routine for its performance that reliance upon such employee represented the exercise of due care."

Petitioners have failed to establish that there was in place a business routine for performing the clerical function that could reasonably be relied upon to avoid errors in its performance.

Moreover, petitioners have failed to establish that the employee deemed to have caused the error at issue was sufficiently trained and experienced with regard to the function and routine for its performance that reliance upon such employee represented the exercise of due care.

The record does not support petitioners' contention that a docketing error occurred. Even assuming arguendo that a docketing error did occur, it cannot be found that said error led to the delay in timely responding to the non-final Office action.

Petitioners allege that the Office action intended for the instant application was docketed for U.S. App. No. 10/351,801. Petitioners further point out that an Office action was mailed in U.S. App. No. 10/351,801 on September 8, 2005, the same date that an Office action was mailed in the instant application.

A review of the application history for U.S. App. No. 10/351,801 indicates that a reply to an Office action was received April 10, 2006 (the response bore a certificate of mailing date of March 8, 2006 in accordance with 37 CFR 1.8, and, was thus deemed to have been timely submitted.) Further review of the record indicates that the response received April 10, 2006 was not responsive to the Office action mailed September 8, 2005 in U.S. App. No. 10/351, 801, as indicated in the Office communication mailed July 14, 2006. A reply to the Office communication mailed July 14, 2006 in U.S. App. No. 10/351,801 was received August 16, 2006. In that response, applicants acknowledged in the reply received April 10, 2006 was "directed at related application No. 10/353,126," and attributed this error to the attorney docket number recorded by the USPTO.

Given the circumstances, it is clear that practitioner mistakenly submitted a reply intended for the instant application to U.S. App. No. 10/351,801. This error cannot be attributed to the USPTO but is in fact directly attributable to practitioner's error. Lack of diligent review of the Office action and the reply prior to submission of the reply by applicants' voluntarily chosen representative is not deemed unavoidable. Such review would have revealed practitioner's error given every Office action mailed by the USPTO sets forth the application number to which it relates.

That being the case, the Patent and Trademark Office must rely on the actions or inactions of duly authorized and voluntarily chosen representatives of the applicant, and applicant is bound by the consequences of those actions or inactions. Link v. Wabash, 370 U.S. 626, 633-34 (1962). Specifically, applicant's delay caused by mistakes or negligence of a voluntarily chosen representative does not constitute unavoidable delay. Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (N.D. Ind. 1987); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Douglas v. Manbeck, 21 USPQ2d (BNA)(1697)(E.D. PA Nov. 7, 1991).

Any renewed petition must be supported by evidence that sufficiently establishes that delay in timely responding to the non-final Office action can be attributed to a docketing error and not an inadvertent error made by practitioner.

ALTERNATE VENUE

Petitioners may wish to consider filing a petition stating that the delay was unintentional. Petitioners' attention is directed to 37 CFR 1.137(b) which provides for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of an issue fee was "unavoidable." An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required petition fee and reply.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

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

By mail:

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

Application No. 10/353,126

By facsimile: (703) 872-9306

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

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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

SCOTT P. ZIMMERMAN, PLLC
PO BOX 3822
CARY NC 27519

In re Application of
Wellons, et al.
Application No. 10/353,126
Filed: January 27, 2003
Docket No.: BS02524

: DECISION ON PETITION

This is a decision on the petition renewed under 37 C.F.R. § 1.137(b), filed January 11, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned December 9, 2005 for failure to timely reply to the non-final Office action mailed September 8, 2005. The non-final Office action 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. Notice of Abandonment was mailed July 5, 2006.

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

The instant petition has been reviewed and found in compliance with the provisions of 37 C.F.R. § 1.137(b). Accordingly, the failure to timely submit a proper reply to the non-final Office action is accepted as having been unintentionally delayed.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 4

KNOBBE, MARTENS, OLSON
& BEAR, LLP
2040 MAIN STREET, 14TH FLOOR
IRVINE, CA 92614

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MAY 2 8 2003

OFFICE OF PETITIONS

In re Application of :
Oron :
Application No. 10/353,130 : ON PETITION
Filed: January 28, 2003 :
Attorney Docket No. ACULSR.037C1 :

This decision concerns the April 25, 2003 petition under 37 CFR 1.10(d).

The petition is **GRANTED**.

The petition requests a filing date of January 28, 2003 rather than the presently accorded filing date of January 27, 2003, on the basis that the application was deposited on January 28, 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 application apparently was deposited in the "Express Mail" with a mailing label that bears the number "EV211931008US." The same number also appears on the application transmittal that itemizes the application papers being deposited. Although the mailing label includes a penned-in January 27, 2003 "date-in," the Office has verified through the USPS official website www.usps.gov (Track & Confirm) that the package deposited with this mailing label had been accepted by the USPS on January 28, 2003 at 4:52pm. The petition is thus granted.

No fee is required.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of November 28, 2003, including the issuance of a corrected filing receipt reflecting this filing date; and to await the filing of an abstract as required in the April 9, 2003 "Notice to File Corrected Application Papers." Thereafter, the application will be forwarded to the appropriate Technology Center for examination in due course.

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

RC Tang
Petitions Attorney
Office of Petitions

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P.O. BOX 145
ALEXANDRIA, VA 22313-145
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DEC 16 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Jose Paul Moretto
5403 Biloxi St.
San Diego, CA 92105

Paper No. 4

In re application of
Jose Paul Moretto
Application No. 10/353,141
Filed: January 27, 2003
For: AIRLINER IRREVERSIBLE-CONTROL
ANTI-HIJACK SYSTEM

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

This is a decision on the petition submitted on January 27, 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 or, in the alternative, "national security". The delay in deciding this petition is sincerely regretted.

The petition is **DISMISSED**.

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.

No such evidence has been submitted with the petition.

It is noted applicant has also made a request to grant the application with special status because it is related to "national security". There is no condition under 37 C.F.R. 1.102 to grant an application special status for inventions related to national security. An application may be granted special status if it is related to counter-terrorism as set forth in MPEP § 708.02 XI .

The requirements for granting special status under this section are: (A) a petition to make specia accompanied by the fee set forth in 37 CFR 1.17(h); and (B) a statement explaining how the invention contributes to countering terrorism.

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. Should petitioner desire reconsideration, he should supplement this petition by a declaration or statement giving the information as outlined above. 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.

SUMMARY: Petition To Make Special **DISMISSED**

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
(703) 308-2121

RAR/cps: 12/12/03

UNITED STATES PATENT AND TRADEMARK OFFICE

#6

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
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www.uspto.go

MAILED

FEB 10 2004

Office of the Director
Group 3600

Paper No. 6

Jose Paul Moretto
5403 Biloxi St.
San Diego, CA 92105

In re application of
Jose Paul Moretto
Application No. 10/353,141
Filed: January 27, 2003
For: AIRLINER IRREVERSIBLE-CONTROL
ANTI-HIJACK SYSTEM

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

This is a decision on the renewed petition submitted on January 21, 2004, under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age or, in the alternative, "national security".

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.

Applicant has provided a copy of his U.S. passport indicating he is at least 65 years of age.

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

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

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

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

SNM/mjz: 2/2/04

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.

10/353149

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

Application Number	SEE ATTACHMENT (1 PAGE)
Filing Date	
First Named Inventor	
Art Unit	
Examiner Name	
Attorney Docket Number	

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

APPROVED
10/13/05
WILLIAM R. DIXON, JR.
SPECIAL PROGRAM EXAMINER

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 45,200

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:

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	Symbigene, Inc.				
Address	2701 Loker Avenue West, Suite 150				
City	Carlsbad	State	California	Zip	92008
Country	USA				
Telephone	949-[illegible]4000	Fax			
Signature					
Name	Louis C. Cullman	Registration No.	39,645		
Date	11/23/04	Telephone No.	949-253-0900		

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.

Request to Withdraw as Attorney or Agent and Change of Correspondence Address

Attachment A

51330-9999

Client/Matter No.	Serial No.
51310-00001	10/353,137
51310-00002	10/280,769
51310-0011	10/353,149

PAGE 3/3 * RCVD AT 11/24/2004 5:17:11 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-1/2 * DNIS:8729306 * CSID:9492530902 * DURATION (mm-ss):01-28

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

COPY MAILED

JUL 26 2007

OFFICE OF PETITIONS

In re Application of :
BASS et al :
Application No.: 10/353,173 : DECISION ON PETITION
Filing Date: January 28, 2003 : UNDER 37 CFR 1.137(B)
Attorney Docket No.: 0106162.0527317 (1116109-0014) :

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

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed November 7, 2006, which set a statutory period for reply of three (3) months. Accordingly, by operation of law, the above-identified application became abandoned on February 8, 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

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

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

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DEC 2 4 2003

OFFICE OF PETITIONS

In re Application of:
Steven J. Young, Gregory T.A. Kovacs,
M. Allen Northrup, Kurt E. Peterson,
William A. McMillan, Konstantin Othmer,
And Lee A. Christel
Application No. 10/353,186
Filed: January 27, 2003
Title of Invention: SYSTEM AND METHOD FOR TEMPERATURE CONTROL

DECISION GRANTING STATUS UNDER 37 CFR 1.47

This Decision is in response to a Petition Under 37 C.F.R. 1.47(a), filed November 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 inventor, M. Allen Northrup, refuses to join in the application.

As provided in Rule 1.47(a), this Office will forward notice of this application's filing to the non-signing 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

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

M. Allen Northrup
616 Vistamont Avenue
Berkeley, CA 94708

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DEC 2 4 2003

OFFICE OF PETITIONS

In re Application of:
Steven J. Young, Gregory T.A. Kovacs,
M. Allen Northrup, Kurt E. Peterson,
William A. McMillan, Konstantin Othmer,
And Lee A. Christel
Application No. 10/353,186
Filed: January 27, 2003
Title of Invention: SYSTEM AND METHOD FOR TEMPERATURE CONTROL

LETTER

Dear Mr. Northrup:

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

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Paper No. 7

WEI-FU HSU
BINGHAM MCCUTCHEN LLP
SUITE 1800
THREE EMBARCADERO CENTER
SAN FRANCISCO, CA 94111

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OFFICE OF PETITIONS

In re Application of
James M. Kates
Application No. 10/353,187
Filed: January 27, 2003
Attorney Docket Number: 222645-7210

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b),[1] filed on January 30, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned May 15, 2003, for failure to timely reply to the Notice to File Missing Parts mailed on March 14, 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. Accordingly, a Notice of Abandonment was mailed January 30, 2004.

Receipt of an executed oath or declaration and surcharge for its late filing is acknowledged.

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

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

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

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

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

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

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

NOTICE RE: CERTIFICATES OF CORRECTION

DATE : 5/2/05 Paper No.: _____

TO : Supervisor, Art Unit 1763

SUBJECT : Certificate of Correction Request in Patent No.: 10/353,194 6,753,262

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

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

PLEASE COMPLETE THIS FORM AND RETURN WITH FILE, WITHIN 7 DAYS, TO CERTIFICATES OF CORRECTION BRANCH - PK 3-915/922 PALM LOCATION 7580 - TEL. NO. 305-8309

THANK YOU FOR YOUR ASSISTANCE!

Note your decision by placing a check mark in the appropriate box below, indicating whether all changes requested in the Request for Certificate of Correction should be applied. Please specify which changes should not be applied and indicate the reason(s) for denial, in the "Comments" section below.

☒ YES ☐ NO

☒ Comments: see the correction to the certificate of correction as attached

PARVIZ HASSANZADEH
~~SUPERVISORY PATENT EXAMINER~~
Supervisor

1763
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 4

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OFFICE OF PETITIONS

GRAY CARY WARE & FREIDENRICH LLP
2000 UNIVERSITY AVENUE
E. PALO ALTO, CA 94303-2248

In re Application of :
Janet Wasowiz :
Application No. 10/353,198 :
Filed: January 27, 2003 :
Attorney Docket No. 2100632-991103 :

DECISION GRANTING PETITION

This is a decision on the petition filed April 22, 2003 to allow the application to retain the current filing date of January 27, 2003.

On January 27, 2003, the application was deposited.

On March 15, 2003, the Office of Initial Patent Examination mailed a Notice stating, in part, that pages 34 and 39 of the specification were omitted and that a filing date had been accorded.

Petitioner maintains that entire disclosure of prior patent application 09/414,393 was properly incorporated by reference into the above-cited application, therefore; pages 34 and 39 of the specification were present on filing by virtue of the incorporation by reference.

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 application are "hereby incorporated 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 applications(s) will permit an applicant to amend the divisional application to include any subject matter in such prior application(s) , without the need for a petition. See MPEP 201.06(c). Such a statement was found in the application transmittal sheet filed with the original application papers.

In view of the incorporation by reference of the prior application, pages 34 and 39 of the specification are not new matter if they were a part of the disclosure of the prior application.

The application is being returned to the Office of Initial Patent Examination for further processing with presently accorded filing date of January 27, 2003.

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

The replacement drawings filed April 22, 2003, are noted and made of record.

The substitute specification filed April 22, 2003, is noted and made of record.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of January 27, 2003, using the application papers filed on January 27, 2003.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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Paper No. 4

BAKER & BOTTS
30 ROCKEFELLER PLAZA
NEW YORK NY 10112

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JUN 0 9 2003

OFFICE OF PETITIONS

In re Application of
Tsividis & Krishnapura
Application No. 10/353,200
Filed: January 28, 2003
Attorney Docket No. AP32981-I 070050.2281
For: CIRCUITS WITH DYNAMIC BIASING

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.182 filed May 27, 2003 (certificate of mailing date May 22, 2003), to change the order of inventorship.

The petition is GRANTED.

The first named inventor is now Yannis P. Tsividis. A replacement filing receipt is enclosed.

After the mailing of this decision, the application file will be forwarded to Technology Center 2800 for examination in due course.

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

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

enclosure: replacement filing receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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30 ROCKEFELLER PLAZA
NEW YORK NY 10112

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OFFICE OF PETITIONS

ON PETITION

In re Application of
Yannis P. Tsividis et al.
Application No. 10/353,200
Filed: January 28, 2003
Attorney Docket No. AP32981-I070050.2281

This is a decision on the petition filed July 30, 2004 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 May 25, 2004 for failure to timely pay the issue fee on or before May 24, 2004. Accordingly, a Notice of Abandonment was mailed July 14, 2004.

The issue fee having been properly remitted in accordance with 37 CFR 1.18 on June 30, 2004 and 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 (703) 305-4497.

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©)).

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Paper No. 5

KOPPEL, JACOBS, PATRICK & HEYBL
Suite 107
555 St. Charles Drive
Thousand Oaks CA 91360

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JUN 2 5 2003

OFFICE OF PETITIONS

In re Application of
Pierson, et al.
Application No. 10/353,208
Filed: January 27, 2003
Attorney Docket No. 01SC027DV1
For: METHOD OF FABRICATING A BIPOLAR TRANSISTOR

DECISION ON PETITION

This is a decision on the petition, filed May 23, 2003 (certificate of mailing date May 20, 2003), requesting, in effect, withdrawal of the Notice of Omitted Item(s) in a Nonprovisional Application (Notice), mailed April 25, 2003.

The application was filed on January 27, 2003. On April 25, 2003, the Office of Initial Patent Examination mailed a Notice informing petitioners that Figure 12, as described in the specification, appeared to have been omitted.

Petitioners request that Figure 12 be accorded a filing date of January 27, 2003 on the basis that 6 sheets of drawing figures, including Figure 12, were received in the Patent and Trademark Office (PTO) on January 27, 2003. Petitioners have supplied a copy of their itemized date stamped postcard receipt listing 6 sheets of drawings and showing an Office of Initial Patent Examination generated barcode citing January 27, 2003 as the date of receipt.

The return postcard constitutes *prima facie* evidence that 6 sheets of drawing figures were filed on January 27, 2003. MPEP 503. A review of the application file reveals that there are 6 sheets of drawing figures present.

It is noted that Figures 3, 4 and 12 can be found on the second sheet of drawings found in the application file. The initial reviewers overlooked Figure 12.

Accordingly, the petition under 37 CFR 1.53(e) is **GRANTED**. No petition fee has been or will be charged in connection with this matter.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of **January 27, 2003.** As stated above, all drawing figures were present in the Office on January 27, 2003 with Figure 12 on the page that contains Figures 3 and 4.

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

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
10/353,210	01/27/2003	Ian C. Roman	S6090-47316	8632

20454 7590 06/22/2007

JEFFREY C. LEW
2205 SILVERSIDE ROAD
WILMINGTON, DE 19810

EXAMINER	
NGUYEN, TAM M	

ART UNIT	PAPER NUMBER
1764	

MAIL DATE	DELIVERY MODE
06/22/2007	PAPER

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

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

UNITED STATES DEPARTMENT OF COMMERCE
U.S. Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.

EXAMINER	
ART UNIT	PAPER
	2007062-a

DATE MAILED:

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

Commissioner for Patents

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:

Paper No. 20070620-b

In re Application of Ian Roman.
Serial No.: 10353210
Filed: 01/27/2003

DECISION ON PETITION
UNDER *37 CFR 1.48(b)*

Title: Method of Separating Olefins From Mixtures with Paraffins

This is a decision on the PETITION TO CORRECT INVENTORSHIP IN A NON-PROVISIONAL PATENT APPLICATION filed 02/22/07 to correct inventorship under 37 CFR 1.48(b) by deleting the names of Okan Mak Ekiner from the list of inventors of the instant application.

It is noted that the applicant has met the requirements of 37 C.F.R. § 1.48(b) by (1) submitting a request to correct the inventorship that sets forth the desired inventorship change; (2) A request, signed by a party set forth in § 1.33(b), to correct the inventorship that identifies the named inventor or inventor(s) being deleted and acknowledges that the inventor's invention is no longer being claimed in the nonprovisional application; and
(3) The processing fee set forth in § 1.17(i)

The request is **GRANTED**.

The application file is being forwarded to the Office of Initial Patent Examination (OIPE) for issuance of a corrected filing receipt, and correction of the records to reflect the inventorship as corrected.

Glenn A. Caldarola
Supervisory Patent Examiner
Art Unit 1764
Technology Center 1700

Correspondence Address:

JEFFREY C. LEW
2205 SILVERSIDE ROAD
WILMINGTON DE 19810

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JOSEPH S. TRIPOLI
THOMSON MULTIMEDIA LICENSING INC.
2 INDEPENDENCE WAY
P.O. BOX 5312
PRINCETON NJ 08543-5312

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OFFICE OF PETITIONS

In re Application of :
Dore et al. :
Application No. 10/353,214 : ON PETITION
Filed: January 28, 2003 :
Attorney Docket No. PF020004 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 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 November 27, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is February 28, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $1,540.00; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 2616 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.

Charlema Grant

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
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Paper No. 6

MAIL

APR 2 0 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Hughes Electronics Corporation
Patent Docket Administration
Bldg. 1, Mail Stop A109
P.O. Box 956
El Segundo CA 90245-0956

In re Application of
Mustafa EROZ, et al.
Application No. 10/353,224
Filed: January 28, 2003
For: **A SATELLITE COMMUNICATION SYSTEM UTILIZING LOW DENSITY PARITY CHECK CODES**

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition filed on March 11, 2004, pursuant to Manual of Patent Examination Procedure §708.02, section VIII, request for accelerated examination.

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

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

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

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4710

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Paper No. 6

Craig L. Plastrik
Hughes Electronics Corporation
Patent Docketing Administration
P.O. Box 956
Bldg. 1, Mail Stop A109
El Segundo, CA 90245-0956

MAILED

APR 22 2004

Technology Center 2100

In re Application of:
Mustafa EROZ et al.
Application No. 10/353,230
Filed: January 28, 2003
For: METHOD AND SYSTEM FOR GENERATING LOW DENSITY PARITY CHECK (LDPC) CODES

DECISION ON PETITION FOR ACCELERATED EXAMINATION UNDER M.P.E.P. §708.02(VIII)

This is a decision on the petition, filed 27 February 2004, requesting the grant of special status based on M.P.E.P. §708.02, Section VIII.

M.P.E.P. §708.02, Section VIII, which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d), states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in 37 CFR §1.17(i);

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR §1.111(b) and (c), how the claimed subject matter is patentable over the references.

The submission does not satisfy the requirement of section (e), in that it reproduces the Abstracts provided in each reference. That is, the submission does not satisfy the requirement, as it does not provide a ***detailed discussion*** of the references. Furthermore, the submission does not satisfy the requirement of section (e) in that it does not point out how the ***claimed subject matter is patentable over the references***. That is, the detailed discussion of the references as required by section (e) does not have the particularity required by 37 CFR 1.111(b) and (c). Although limitations of claims 1 and 17 are discussed, independent claims 12, 14, and 21 are not discussed. Furthermore, Petitioner discusses limitations of claims 6 and 9, but also discusses limitations of claim 7 and 10, which depend from claims 6 and 9. Such a statement does not point out how independent claims 6 and 9 are patentable over the references.

Accordingly, the Petition is **DISMISSED**. The application file is being forwarded to Central Files to await examination in its proper turn based on its effective filing date.

Any request for reconsideration must be filed within two months of the mailing date of this decision.

Any inquiry concerning this decision should be directed to Vincent N. Trans whose telephone number is (703) 305-9750.

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
703-305-9750

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/353,230	01/28/2003	Mustafa Eroz	PD-202101	6153

20991 7590 04/15/2010

THE DIRECTV GROUP, INC.
PATENT DOCKET ADMINISTRATION
CA / LA1 / A109
2230 E. IMPERIAL HIGHWAY
EL SEGUNDO, CA 90245

EXAMINER	
NGUYEN, STEVE N	

ART UNIT	PAPER NUMBER
2117	

MAIL DATE	DELIVERY MODE
04/15/2010	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.

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EL SECUNDO, CA 90245

TECHNOLOGY CENTER 2100

APR 15 2010

MAILED

In re Application of: EROZ, et al.
Application No. 10/353,230
Filed: January 28, 2003
For: METHOD AND SYSTEM FOR GENERATING LOW DENSITY PARITY CHECK CODES

DECISION ON PETITION
TO MAKE SPECIAL
(ACCELERATED EXAMINATION)
UNDER M.P.E.P. §708.02 (VIII)

This is a decision on the renewed petition filed on June 18, 2004, under 37 C.F.R. 102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special. The original petition, filed February 27, 2004, was dismissed in the decision mailed on April 22, 2004. The delay in responding to the instant petition is regretted.

The Petition is **GRANTED**.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

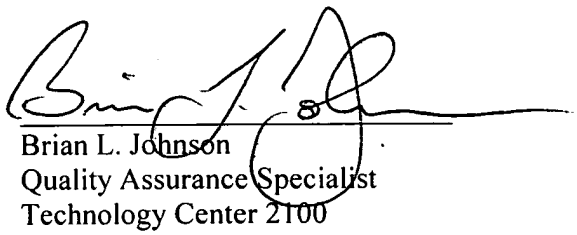
(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

Petition to Make Special **GRANTED** since all of the requirements for special status under MPEP § 708.02(VIII) have now been met.

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.



Brian L. Johnson
Quality Assurance Specialist
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

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KEATING & BENNETT LLP
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FAIRFAX, VA 22030

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FEB 11 2005

OFFICE OF PETITIONS

In re Application of :
Neil McLellan et al :
Application No. 10/353,241 : DECISION GRANTING PETITION
Filed: January 28, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 50626.48 :

This is a decision on the petition, filed February 4, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 21, 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 2826 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).*

APR 1 9 2005

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FAIRFAX, VA 22030

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FEB 1 1 2005
OFFICE OF PETITIONS

In re Application of :
Neil McLellan et al :
Application No. 10/353,241 : DECISION GRANTING PETITION
Filed: January 28, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 50626.48 :

This is a decision on the petition, filed February 4, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 21, 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 2826 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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Paper No. 7

Simon T. Gonsalves
993 Calle Feliz
Santa Fe, NM 87507

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OCT 25 2004

OFFICE OF PETITIONS

In re Application of :
Simon Thomas Gonsalves :
Application No. 10/353,253 : DECISION DISMISSING
Filed: January 30, 2003 : PETITION
Title: FRONT WHEEL DRIVE HANDLEBAR :
FOR USE WITH BICYCLES :

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a), filed October 13, 2004.

The above-identified application became abandoned on June 20, 2004, for failure to timely respond to the non-final Office action mailed March 19, 2004. A courtesy Notice of Abandonment was mailed on September 29, 2004.

Pro se applicant filed the instant petition (and petition fee) based on unavoidable delay. Petitioner explains that he was transferred from New Mexico to Los Angeles due to Operation Enduring Freedom and requests that the application be put on hold until he returns home early in December. In support of this request, he submits a copy of his work order issued by the Department of the Army, dated June 14, 2004 and effective June 17, 2004. Applicant does not submit a response to the non-final Office action.

DISCUSSION

37 CFR 1.103 provides, in pertinent part, that:

> The Office will not suspend action if a reply by applicant to an Office action is outstanding.

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).

Pursuant to 37 CFR 1.103, and as explained in the Examiner's Comments provided with the Notice of Abandonment mailed September 29, 2004, a suspension of action can be requested after applicant has revived the application and responded to the Office action mailed March 19, 2004.

Presently, applicant has not met the standard under § 1.137(a) to revive this application. The petition does not satisfy requirements (1) and (3) above. (Note: As this application was filed after June 8, 1995, no terminal disclaimer is required on petition to revive).

In order to revive this application under § 1.137(a) (or (b)), applicant must submit a reply to the Office action mailed March 19, 2004.

In addition, to revive based on unavoidable delay, applicant must make an adequate showing that the entire delay in filing this reply from the due date for the reply, June 19, 2004, to the filing of a grantable petition was unavoidable. The showing of record before the Office is inadequate to establish unavoidable delay within the meaning of 37 CFR § 1.137(a)(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.) In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(*quoting* Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 U.S.P.Q. 666, 167-68 (D.D.C. 1963), aff'd, 143 U.S.P.Q. 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). Decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith, 671 F.2d at 538, 213 U.S.P.Q. at 982. Nonetheless, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines, 673 F. Supp. at 316-17, 5 U.S.P.Q.2d at 1131-32.

The transfer of applicant from one duty station to another does not, in of itself, establish that applicant's delay in filing a reply should be considered unavoidable. Applicant needs to set forth the specific facts and circumstances which he believes should excuse his delay. Then, the Office will consider whether those facts and circumstances meet the standard for establishing unavoidable delay.

More importantly, given that applicant has not supplied a reply, the period of delay to be considered is ongoing. In order words, upon submission of the required reply, and further explanation of the entire period of delay, the Office will reconsider whether applicant's delay was unavoidable.

CONCLUSION

The showing required under § 1.137(a) is exacting, and petitioner has not met that showing.

Accordingly, the petition must be **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR § 1.137(a)" or "Renewed Petition under 37 CFR § 1.137(b)," as appropriate (if applicant does not use a PTO form). Extensions of time are permitted under § 1.136(a).

Alternative *Venue*

While the showing of record is not sufficient to establish to the satisfaction of the Commissioner that the delay was unavoidable, petitioner is not precluded from seeking relief by filing a request for reconsideration pursuant to 37 CFR § 1.137(b) on the basis of unintentional delay. A grantable petition under § 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); (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 § 1.20(d)) required pursuant to § 1.137(d).

Petitioner may file a petition under § 1.137(b) upon his return home in early December.

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:
(703) 872-9306
ATTN: NANCY JOHNSON
SENIOR PETITIONS ATTORNEY

By hand:
Patent correspondence delivered by hand or delivery services, **other than the USPS**, to the Customer Window must be addressed as follows:

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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DEC 11 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

JAMES & FRANKLIN, LLP
Suite 2915
60 East 42nd Street
New York, NY 10165

Paper No. 4

In re application of
Isaac Rinkewich
Application No. 10/353,257
Filed: January 30, 2003
For: FLEXIBLE MULTI-LINK CLOSURE

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

This is a decision on the petition submitted on January 30, 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 delay in deciding this petition is sincerely regretted.

The petition is **GRANTED**.

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

The evidence submitted with the petition is a 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**.

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
(703) 308-2121

RAR/cps 12/3/03

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2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

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APR 2 3 2003

OFFICE OF PETITIONS

In re Application of :
Gaddipati :
Application No. 10/353,259 : ON PETITION
Filed: January 28, 2003 :
Attorney Docket No. LEXOR8.002AUS :

This is a decision on the petition filed March 31, 2003, to accord the above-identified application a filing date of January 28, 2003, instead of January 27, 2003.

The petition is **granted**.

37 CFR 1.10(d) 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 the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and
>
> (3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

All of the above requirements have been met. Therefore, the application will be accorded a filing date of January 28, 2003.

The file is now being forwarded to the Office of Initial Patent Examination to accord the application a filing date of January 28, 2003.

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/31/06

TO SPE OF : ART UNIT 2815

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/353261 Patent No.: 6825104

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

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

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

HENRY RANDALL
Certificates of Correction Branch
703-308-9390 ext.

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

_____

_____

_____

_____

_____ SPE

2815 Art Unit

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United States Patent and Trademark Office
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GREENBERG TRAURIG LLP
2450 COLORADO AVENUE, SUITE 400E
SANTA MONICA, CA 90404

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OCT 27 2005

OFFICE OF PETITIONS

In re Patent No. 6,805,838
Issue Date: October 19, 2004
Application No. 10/353,264
Filed: October 4, 2002
Attorney Docket No. 56990-011000

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.78(a)(3) AND
:REQUEST FOR CERTIFICATE
:OF CORRECTION
:

This is a decision on the petition filed October 4, 2005, which is being treated as a petition under 37 CFR 1.78(a)(3), seeking to add a claim for priority under 35 U.S.C. § 120 to nonprovisional Application No. 09/192,969, filed November 16, 1998, by way of a certificate of correction.[1]

The petition is **granted**.

A review of the file record fails to disclose that a claim for the benefit of priority to the above-noted, prior-filed nonprovisional application was made within the time period set forth in 37 CFR 1.78(a)(2)(ii) and further failed to include a proper reference to the prior-filed application as required by 37 CFR 1.78(a)(2)(i) and 1.78(a)(2)(iii).

The instant application was filed October 4, 2002. Therefore, since this application was filed after November 29, 2000, a petition under 37 CFR 1.78(a)(3), along with submission of a Certificate of Correction, is the appropriate avenue of relief to accept a late claim for the benefit of priority to a prior-filed nonprovisional application after issuance of the application into a patent. *See* MPEP 1481.

As 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.

It is noted that the statement of unintentional delay references 37 CFR 1.78(a)(5)(ii), whereas, the applicable rule is 37 CFR 1.78(a)(2)(ii). Nevertheless, the statement of unintentional delay will be construed as the statement required by 37 CFR 1.78(a)(3).

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[1] Re-submitted on October 26, 2005.

As authorized, the $1,370 surcharge fee, as well as the $100 certificate of correction fee, will be charged to petitioner's Deposit Account No. 50-2638.

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

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

This matter is being referred to the Certificates of Correction Branch for processing the request for a certificate of correction in accordance with this decision on the petition under 37 CFR 1.78(a)(3).

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

VINCENT A. CICHOSZ
LEGAL STAFF
MAIL CODE: 480-410-202
P.O. BOX 5052
TROY MI 48007-5052

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OFFICE OF PETITIONS

In re Application of :
Jeffrey G. Weissman et al :
Application No. 10/353,304 : ON PETITION
Filed: January 29, 2003 :
Attorney Docket No. DP-308207 :

This is a decision on the petition, filed February 27, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on January 31, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

The instant petition under 37 CFR 1.313(c)(2), the RCE and the IDS, filed on February 27, 2006, are not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Paul L. Marshall appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he act. However, if Mr. Marshall desires to receive correspondence regarding this file, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision is being mailed to Mr. Marshall, the

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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).

petitioner herein. Until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

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

This matter is being referred to Technology Center Art Unit 3748 for processing of the request for continued examination under 37 CFR 1.114 filed February 27, 2006.

Karen Creasy

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

cc:
DELPHI CORPORATION
M/C 480-410-202
5825 DELPHI DRIVE
TROY, MI 48098

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. 080304

MICHAEL A. O'NEIL
Michael A. O'Neil P.C.
5949 Sherry Lane, Suite 820
Dallas, TX 75225

FEB - 2 2005

In re Application of:
Grant Sanders
Serial No.: 10/353,370
Filed: January 28, 2003
Attorney Docket No.: **30095-1002**

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 October 23, 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 Michael A. O'Neil.

The request is **APPROVED**.

It is noted that the application is now abandoned. There are no attorneys of record at this time.

All future communications from the Office will be directed to the inventor, Grant Sanders, at the below address, until otherwise notified by applicant.

Inquiries related to this decision should be directed to Hein H Phan at (571) 272-1606.

Hein H. Phan, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: Grant Sanders
9618 Bellewood Drive
Dallas, TX 91343

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 3

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JUN 0 9 2003

OFFICE OF PETITIONS

MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH NC 27627

In re Application of
Lee, et al.
Application No. 10/353,386
Filed: January 28, 2003
Attorney Docket No. 5649-1020
For: METHODS FOR FORMING METAL INTERCONNECTIONS FOR SEMICONDUCTOR DEVICES HAVING MULTIPLE METAL DEPOSITIONS

: DECISION GRANTING
: PETITION

This is a decision on the petition filed May 27, 2003 (certificate of mailing date May 22, 2003) entitled, "PETITION TO ACCORD A FILING DATE," requesting that the above-identified application be accorded a filing date of January 28, 2003 rather than the presently accorded filing date of January 29, 2003. The petition will be treated under 37 CFR 1.10(c).

Petitioners request the earlier filing date on the basis that the application was deposited in Express Mail service of the United States Postal Service (USPS) on January 28, 2003, pursuant to the requirements of 37 CFR 1.10. The petition is accompanied by a copy of Express Mail label no. EV193629227US showing a "date-in" of 1/28/03 and a USPS date stamp for January 28, 2003. The same Express Mail label number is found on the ORIGINAL PATENT APPLICATION TRANSMITTAL LETTER found in the application file.

The evidence presented establishes that the Express Mail package associated with Express Mail label no. EV193629227US was deposited with the USPS on January 28, 2003.

Accordingly, the petition is granted.

No fee has been or will be charged in connection with this petition.

The application is being returned to the Office of Initial Patent Examination for correction of the filing date to January 28, 2003.

Any inquiries related to this decision should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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RATNERPRESTIA
P O BOX 980
VALLEY FORGE PA 19482-0980

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OFFICE OF PETITIONS

In re Application of :
Thomas E. Conn et al. :
Application No. 10/353,400 : ON PETITION
Filed: January 29, 2003 :
Attorney Docket No. ANMS-117US1 :

This is a decision on the petition filed August 16, 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 August 8, 2006 for failure to timely pay the issue fee on or before August 7, 2006. The instant petition preceded the Notice of Abandonment mailed on September 5, 2006.

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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Paper No. 3

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MAY 0 5 2003

OFFICE OF PETITIONS

HICKMAN PALERMO TRUONG
& BECKER, LLP
1600 WILLOW STREET
SAN JOSE, CA 95125-5106

In re Application of :
Savage et al. :
Application No. 10/353,401 : ON PETITION
Filed: January 28, 2003 :
Attorney Docket No. 50325-0692 :

This decision concerns the April 28, 2003 "Petition to Accord Filing Date under 37 CFR 1.10."

The petition is **GRANTED**.

Petitioners request a filing date of January 28, 2003 rather than the presently accorded filing date of January 29, 2003, on the basis that the application was deposited on January 28, 2003 in the U.S. Postal Service (USPS) "Express Mail Post Office to Addressee" service pursuant to the requirements of 37 CFR 1.10. The petition is accompanied by a copy of the "Express Mail" mailing label bearing the number "EV247735212US." The same number also appears on the application transmittal which itemizes the application papers being mailed on that date. In addition, the Office has confirmed via the official USPS website, www.usps.gov (Track & Confirm), that the package mailed under this label number had been accepted by the USPS on January 28, 2003 at 5:59 pm. The petition is thus granted.

No petition fee is owed. The $130 payment enclosed with the instant petition has been credited to Deposit Account No. 50-1302 as authorized in the instant petition.

The application file is being returned to the Office of Initial Patent Examination for correcting the filing date to January 28, 2003, and for mailing of a corrected filing receipt reflecting that filing date. Upon competition of the pre-examination process, the application file will be forwarded to the appropriate Technology Center for examination in due course.

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

RC Tang
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER, 8TH FLOOR
SAN FRANCISCO, CA 94111-3834

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AUG 15 2006

OFFICE OF PETITIONS

In re Application of :
Xiang Dong Tan et al :
Application No. 10/353,453 : ON PETITION
Filed: January 28, 2003 :
Attorney Docket No. 015114-093600US :

This is a decision on the petition under 37 CFR 1.137(b), filed April 21, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the Issue fee in a timely manner in reply to the Notice of Allowance mailed September 1, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on December 2, 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; and (3) the required statement of unintentional delay have been received. Accordingly, the issue fee is accepted as having been unintentionally delayed.

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

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

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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PATENT ADMINISTRATOR
FMC CORPORATION
1735 MARKET STREET
PHILADELPHIA PA 19103

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OFFICE OF PETITIONS

In re Application of :
Theodoridis, et al. :
Application No. 10/353,471 : DECISION ON PETITION
Filed: January 29, 2003 :
Attorney Docket No. 60238-USA-DIV1//2400.1060003/VLC :

This is a decision on the petition under the unintentional delay provisions of 37 CFR 1.137(b), filed January 29, 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 February 2, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed November 2, 2005. Accordingly, the date of abandonment of this application is February 3, 2006. A Notice of Abandonment was mailed on December 27, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,400.00 and the publication fee of $300.00, (2) the petition fee of $1,500.00; and (3) an acceptable statement of unintentional delay.

While the completed PTOL-85B submitted with the present petition is the one mailed with the first Notice of Allowance and Fee(s) Due on June 21, 2005, the information listed is substantially equivalent to that listed on the November 2, 2005 PTOL-85B. Therefore, it is acceptable.

Regarding the 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, practitioner 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, practitioner must notify the Office.

The person signing the petition requests a change of correspondence address. There is, however, no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney documents must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

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

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

CC: VINCENT L. CAPUANO
STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005-3934

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
www.uspto.gov

Dr. Boguslaw Jelen
224 Ridge Avenue
Winnetka IL 60093

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DEC 14 2004

OFFICE OF PETITIONS

Applicant: Jelen
Appl. No.: 10/353,483
Filed: March 19, 2003
Title: THERAPEUTIC COMPOSITION FOR THE TREATMENT OF HIV-1 AND HIV-2
Pub. No.: US 2003/0203045 A1
Pub. Date: October 30, 2003

This is in response to the request for correction of patent application publication under 37 CFR 1.221(b), which was filed on March 30, 2004.

The request is DISMISSED.

The instant request is that the patent application publication be republished because the publication includes several errors, as the preliminary amendment was not included.

According to 37 CFR 1.215(a), which says the following, in part:

> (a) ... The patent application publication will not include any amendments, including preliminary amendments, unless applicant supplies a copy of the application containing the amendment pursuant to paragraph (c) of this section.

§ 1.215(c) says the following:

> (c) At applicant's option, the patent application publication will be based upon the copy of the application (specification, drawings, and oath or declaration) as amended during examination, provided that applicant supplies such a copy in compliance with the Office electronic filing system requirements within one month of the actual filing date of the application or fourteen months of the earliest filing date for which is sought under title 35, United States Code, whichever is later.

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records . . . Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance

of a patent.[1]

The request for corrected publication received on March 30, 2004, was not timely filed under 37 CFR 1.221(b).

The applicant did not supply a copy of the application in compliance with § 1.215(c). The patent application publication does not include a material mistake in the publication by the Office. The application was published as originally filed by applicant. The Office is not required to include preliminary amendments in the patent application publication.[2]

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

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

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

The application will be examined in due course.

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709.

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

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[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239 Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

[2] See Patent Application Publications May Now Include Amendments, 1281 Off. Gaz. Pat. Office Notices 53 (April 13, 2004).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : July 10, 2006

TO SPE OF : ART UNIT 2617

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/353489 Patent No.: 7,046,963

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: _____

Duc Nguyen

DUC M. NGUYEN
SUPERVISORY PRIMARY EXAMINER
TECHNOLOGY CENTER 2600

SPE

2617

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. 5

ROPES & GRAY LLP
ONE INTERNATIONAL PLACE
BOSTON, MA 02110-2624

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SEP 26 2003

OFFICE OF PETITIONS

In re Application of :
Crawford et al. : DECISION ON PETITION
Application No. 10/353,494 :
Filed: January 29, 2003 :
Attorney Docket No. CFBF-P03-007 :

This is a decision on the "PETITION TO ESTABLISH PRIOR RECEIPT IN THE P.T.O. OF ITEM(S) CONSIDERED AS OMITTED BY THE U.S.P.T.O. - RESPONSE TO 'NOTICE TO FILE CORRECTED APPLICATION PAPERS'," filed June 24, 2003 (certificate of mailing June 20, 2003). Petitioners request that the above-identified application be accorded a filing date of January 29, 2003, with Figure 7 considered part of the original application disclosure.

Application papers in the above-identified application were deposited on January 29, 2003. However, on April 21, 2003, the Office mailed a NOTICE TO FILE CORRECTED APPLICATION PAPERS, notifying applicants that the application papers had been accorded a filing date; however, Figure 7 described in the specification appeared to have been omitted from the application. This Notice also requested that applicants submit replacement drawings in compliance with 37 CFR 1.84 and 37 CFR 1.121 and comply with the requirements for sequence listings.

Petitioners timely responded with the instant petition (and petition fee). Applicants assert that figure 7 of the drawings was in fact deposited with the USPTO with the original application papers filed on January 29, 2003. In support thereof, petitioners included a copy of a return receipt postcard stamped by OIPE on January 29, 2003, which petitioners maintain indicates that 11 sheets of drawings (Figures 1-7) were being filed. Petitioners also supplied a replacement copy of figure 7.

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 the postcard receipt confirms that: 1) it was date stamped as received in the USPTO on January 29, 2003, and shows assignment of application No. 10/353,494 to the papers submitted therewith 2) it specifically identifies the items being filed, including "Drawings (11 sheets)," and 3) it lacks any annotation of nonreceipt of any item denoted on the postcard. Thus, petitioners have shown that the items denoted, including the 11

sheets of drawings, were filed on January 29, 2003.

The sheets of drawings already considered received in the Office on January 29, 2003, were reviewed along with the drawing sheet containing figure 7 supplied on petition. These papers together constitute the item described on the postcard receipt as "Drawings (11 sheets)." It is concluded that petitioner has shown that figure 7 was among the items present in the application on the date of deposit and should be included in the original application disclosure.

Accordingly, the petition is **GRANTED**.

Given the basis for granting the petition, the petition fee is being refunded to Deposit Account No. 18-1945, as authorized.

This application is being forwarded to the Office of Initial Patent Examination (OIPE) for:

- further processing with a filing date of January 29, 2003, using the application papers received in the Office and presently accorded that date; and the drawing sheet containing figure 7, resupplied on petition filed June 24, 2003;
- correction of Office records to indicate that the application contains eleven (11) sheets of drawings, which were present in the application on filing; and
- processing of the response filed August 4, 2003, to the Notice to File Corrected Application Papers mailed April 21, 2003.

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

Telephone inquiries related to this decision should be directed to the undersigned at 703-305-0309.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 9/25/03

2 Serial/Patent # 10/353,494

	3 Please refund the following fee(s):	4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
	Extension of Time			$
	Notice of Appeal/Appeal			$
X	Petition	3	6/24/03	$ 130.00
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND $

8 TO BE REFUNDED BY:

	Treasury Check
X	Credit Deposit A/C #:

9 18--1945

10 REASON:

	Overpayment
	Duplicate Payment
X	No Fee Due (Explanation):

Filing Date - Grant

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: Nancy Johnson TITLE: Petitions Attorney

SIGNATURE: Nancy Johnson PHONE: 703-305-0309

OFFICE: Petitions/A700

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: [signature] DATE: 9/26/03

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

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

FORM PTO 1577
(01/90)

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

JJGJR.: 06-06

Paper No: __

JHK LAW
P.O. BOX 1078
LA CANADA CA 91012-1078

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JUN 27 2006

OFFICE OF PETITIONS

In re Application of :
Park, et al. :
Application No. 10/353,522 : ON PETITION
Filed: 28 January, 2003 :
Attorney Docket No. 57354-13USA :

This is a decision on a petition filed on 19 April, 2006, under 37 C.F.R. §1.137(b).

For the reasons set forth below, the petition under 37 C.F.R. §1.137(b) is **GRANTED**.

BACKGROUND

The record indicates:

- Petitioner failed to reply timely to the non-final Office action mailed on 6 October, 2004, with reply due absent extension of time on or before 6 January, 2005;
- the instant application went abandoned by operation of law after midnight 6 January, 2005;
- the Office mailed the Notice of Abandonment on 3 May, 2005;
- Petitioner filed the instant petition on 19 April, 2006, with, *inter alia*, a reply in the form of an amendment, and made the statement of unintentional delay–thus, Petitioner appears to have satisfied the regulatory requirements under 37 C.F.R. §1.137(b)–however, it is

noted that the instant petition was filed more than fifteen (15) months after abandonment and more than eleven (11) months after Notice thereof, and such delays may be deemed inconsistent with the diligence required as to patent matters;[1]

- out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

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[1] For more than a century, punctuality and due diligence, equally with good faith, have been deemed essential requisites to the success of those who seek to obtain the special privileges of the patent law, and they are demanded in the interest of the public and for the protection of rival inventors. See: Porter v. Louden, 7 App.D.C. 64 (C.A.D.C. 1895), citing Wollensak v. Sargent, 151 U.S. 221, 228, 38 L. Ed. 137, 14 S. Ct. 291 (1894). An invention benefits no one unless it is made public, and the rule of diligence should be so applied as to encourage reasonable promptness in conferring this benefit upon the public. Automatic Electric Co. v. Dyson, 52 App. D.C. 82; 281 F. 586 (C.A.D.C. 1922). Generally, 35 U.S.C. §6; 37 C.F.R.§§1.181, 182, 183.

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

Specifically, the regulations at 37 C.F.R. §10.18 provide:

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—

(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and

(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —

(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;

(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.

(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, 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

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[3]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[4]

Delays in responding properly raise the question whether delays are unavoidable.[5] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[6] And the Petitioner must be diligent in attending to the matter.[7] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[8]))

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(6) Terminating the proceedings in the Patent and Trademark Office.
(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).
[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

[3] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

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

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

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

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

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

Allegations as to
Unintentional Delay

The requirements for relief under the provisions of 37 C.F.R. §1.137(b) are: petition, fee, reply, showing of unintentional delay, and–where appropriate–a terminal disclaimer and fee.

The record (including the petition filed on 19 April, 2006) does not necessitate a finding that the delay between midnight 6 January, 2005 (date of abandonment), and 19 April, 2006 (date of filing of grantable petition), was not unintentional.

Rather, the Patent and Trademark Office is relying in this matter on the duty of candor and good faith of Applicants (Park, Moon and Kim) and Counsel/Petitioner Hyo Kim (Reg. No. 41,425)) when accepting Petitioner's representation that the delay in filing the response was unintentional.[9]

It appears that Petitioner has satisfied the requirements of the regulation.

CONCLUSION

Because Petitioner appears to have satisfied the regulatory requirements, regulation, the petition under 37 C.F.R. §1.137(b) is **granted**.

The application is released to the Examiner in Technology Center 1600 for further processing in due course.

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

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

[9] See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 C.F.R. §1.137(b) to the Patent and Trademark Office).

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

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OFFICE OF PETITIONS

In re Application of :
Rothaug, Michael :
Application No. 10/353,532 : ON PETITION
Filed: January 29, 2003 :
Attorney Docket No. CL/V-32341A :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed November 29, 2004, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to timely reply to the final Office action mailed May 10, 2004. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on August 11, 2004. A Notice of Abandonment was mailed November 22, 2004.

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

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

This matter is being referred to Technology Center 1700 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

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

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

cc: KAREN BORRELLI
CIBA VISION CORPORATION
PATENT DEPARTMENT
11460 JOHNS CREEK PARKWAY
DULUTH, GA 30097

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P.O. Box 1450
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CIBA VISION CORPORATION
PATENT DEPARTMENT
11460 JOHNS CREEK PARKWAY
DULUTH GA 30097-1556

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Rothaug, Michael :
Application No. 10/353,532 :
Filed: January 29, 2003 :
Attorney Docket No. CL/V 32341A/CVE82 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed March 31, 2006, to revive the above-identified application.

The petition is **GRANTED.**

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

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

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

Liana Chase
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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PROCOPIO, CORY, HARGREAVES & SAVITCH LLP
530 B STREET
SUITE 2100
SAN DIEGO, CA 92101

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OCT 2 1 2004

OFFICE OF PETITIONS

In re Application of	:	
Eswein et al.	:	
Application No. 10/353,538	:	DECISION GRANTING PETITION
Filed: January 28, 2003	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 88537.0054	:	

This is a decision on the petition, filed September 17, 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 January 23, 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 January 13, 2005 was previously mailed to the address of record on October 5, 2004.

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

This matter is now being referred to Technology Center Art Unit 2614 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

cc: TROY M. SCHMELZER
500 S. GRAND AVENUE, SUITE 1900
LOS ANGELES, CA 90071-2668

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Todd T. Taylor
TAYLOR & AUST, P.C.
142 S. Main St.
P.O. Box 560
Avilla IN 46710

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APR 2 6 2005

OFFICE OF PETITIONS

In re Application of :
Todd Wolford :
Application No. 10/353,546 : ON PETITION
Filed: January 29, 2003 :
Attorney Docket No. SMI0063.US :

This is a decision on the petition under 37 CFR §1.137(a), filed November 12, 2004. This petition is being treated under 37 CFR 1.181 as a petition to withdraw the holding of abandonment.

The petition to withdraw the holding of abandonment is **GRANTED**.
The petition under 37 CFR 1.137(a) is **DISMISSED AS MOOT**.

This application was held 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 April 2, 2004. The Notice of Allowance and Fee (s) Due set a three (3) month statutory period for reply. Extensions of time were not available under the provisions of 37 CFR 1.136(a). Accordingly, this application was held abandoned on July 3, 2004. A Notice of Abandonment was mailed August 10, 2004.

Petitioner asserts that the Notice of Allowability mailed April 2, 2004 was never received. 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 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.

Accompanying the petition is a statement by the practitioner stating the Notice of Allowability was not received and attesting to the fact a review of docket records indicates the Notice of Allowability was not received. In addition, petitioner has provided a copy of docket records for the dates in question. Accordingly, petitioner has provided sufficient information to warrant the withdrawal of the holding of abandonment.

Deposit account 20-0095 is being refunded the $55.00 petition fee.

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

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

STEPHEN B. ACKERMAN
28 DAVIS AVENUE
POUGHKEEPSIE, NY 12603

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OFFICE OF PETITIONS

In re Application of :
Thomas Aisenbrey :
Application No. 10/353,555 :
Filed: November 29, 2003 :
Attorney Docket No. INT02-001 :

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed May 20, 2004, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. See 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen months publication country on January 28, 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 months publication country.

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

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

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

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

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

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

A Notice of Allowance and Issue Fee(s) Due was mailed on March 29, 2004 which did not require the submission of the publication fee in view of the nonpublication request submitted on filing. On May 20, 2004, a rescission of the previous nonpublication request was filed and a communication rescinding the nonpublication request and indicating a projected publication date of September 9, 2004 was mailed on June 3, 2004. Thereafter, on September 9, 2004, this application published as Publication Number 20040174301. In view of the publication of this application on September 9, 2004, a $300 publication fee is due. Accordingly, as authorized, the $300 publication fee will be charged to petitioner's Deposit Account No. 19-0033.

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

This application matter is being referred to Publishing Division.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 5

ATTENTION OF SARALYNN MANDEL
MANDEL & ADRIANO
SUITE 710
55 S. LAKE AVENUE
PASADENA CA 91101

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OFFICE OF PETITIONS

In re Application of	:	
Beavo, Corbin, Ferguson, Francis,	:	
Kadlecek, McAllister-Lucas,	:	
Loughney, Sonnenburg, and Thomas	:	DECISION REFUSING STATUS
Application No. 10/353,575	:	UNDER 37 CFR 1.47(a)
Filed: 28 January, 2003	:	
Atty Dkt No. 30429.5USC1	:	

This is in response to the petition filed under 37 CFR 1.47(a)[1] on 16 October, 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 23 January, 2003. Accordingly, on 14 April, 2003, Initial Patent Examination Division mailed a Notice to File Missing Parts of Application, requiring an executed oath or declaration and a surcharge for its late filing as well as replacement drawings and a proper sequence listing. A two (2)-month period for reply was set.

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

In response, on 16 October, 2003 (certificate of mailing date 14 October, 2003), petitioners supplied a declaration naming Joseph A. Beavo, Jackie D. Corbin, Kenneth M. Ferguson, Sharron H. Francis, Ann Kadlecek, Linda M. McAllister-Lucas, Kate Loughney, William K. Sonnenburg, and Melissa K. Thomas as joint inventors and signed by all joint inventors except joint inventors Ferguson and Loughney on behalf of themselves and joint inventors Ferguson and Loughney.

Petitioners state that that a copy of the application was sent to the non-signing inventors' current employer, but that the inventors have not signed the declaration.

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

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

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

(3) the petition fee;

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

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

The petition lacks item (1). In regards to item (1), petitioners have not provided proof that the non-signing inventors were ever sent or presented with a copy of the application as filed (specification, including claims, drawings, if any, and the declaration).[2] Petitioners may show proof that a copy of the application was sent or given to the non-signing inventors 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.

While petitioners have shown that a copy of the application was sent to the Director of Intellectual Property, Sean O'Dea, at the non-signing inventors' current employer, there is no evidence that a copy of the application papers were ever sent or given to the non-signing inventors themselves.

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[2] MPEP 409.03(d).

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 inventors. Petitioners should send a copy of the application papers to the non-signing inventors at their last known addresses or present them with copies of the application (specification, including the claims, drawings, if any, and the declaration). If the inventors refuse in writing, petitioners must submit a copy of that written refusal with any renewed petition. If the refusal was made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of fact.

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

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

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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Paper No. 9

MILES AND STOCKBRIDGE P.C.
1751 PINNACLE DRIVE
SUITE 500
MCLEAN VA 22102-3833

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OFFICE OF PETITIONS

In re Application of :
Beavo, Corbin, Ferguson, Francis, :
Kadlecek, McAllister-Lucas, :
Loughney, Sonnenburg, and Thomas : DECISION ACCORDING STATUS
Application No. 10/353,575 : UNDER 37 CFR 1.47(a)
Filed: 28 January, 2003 :
Atty Dkt No. 30429.5USC1 :

This is in response to the renewed petition filed under 37 CFR 1.47(a) on 21 June, 2004.

The petition is **GRANTED**.

Petitioners have shown that non-signing inventor Loughney has refused to join in the filing of the instant application, and that joint inventor Ferguson cannot be located. Specifically, petitioners have shown that a copy of the application was sent to the last known address of each non-signing inventor. Joint inventor Loughney did not return the declaration. Additionally, petitioners have shown that the application papers sent to joint inventor Ferguson were returned as undeliverable. Despite diligent efforts, Ferguson could not be located.

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

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

The revocation and power of attorney filed on 18 June, 2004, has been accepted. Notification of acceptance will be mailed under separate cover.

After this decision is mailed, the application will be forwarded to Technology Center 1600 for further processing.

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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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DRW 07-04

Kate Loughney
7301 34th Avenue, NE
Seattle WA 98103

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OFFICE OF PETITIONS

In re Application of
Beavo et al.
Application No. 10/353,575
Filed: 28 January, 2003
For: Cyclic-GMP-Binding, Cyclic-GMP-Specific Phosphodiesterase Materials and Methods

Dear Ms. Loughney:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at 703/308-6918. Requests for information regarding your application should be directed to the File Information Unit at 703/308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 703/308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

MILES & STOCKBRIDGE P.C.
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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MILES & STOCKBRIDGE PC
1751 PINNACLE DRIVE
SUITE 500
MCLEAN VA 22102-3833

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SEP 29 2008

OFFICE OF PETITIONS

In re Application of :

BEAVO, Joseph A. et al. :
Application No. 10/353,575 : DECISION ON PETITION
Filed: January 28, 2003 : TO WITHDRAW
Attorney Docket No. **30429.5USC1** : 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 29, 2007.

The request is **APPROVED**.

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

The request was signed by Edward Kondracki on behalf of all attorneys of record who are associated with customer No. 00181. All attorneys/agents associated with the Customer Number 00181 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

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

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **JOSEPH BEAVO**
2309 NW 8TH STREET
SEATTLE WA 98117

cc: **DENNIS P. CLARKE**
7422 OLD MAPLE SQUARE
MCLEAN VA 22102

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SYNNESTVEDT & LECHNER, LLP
2600 ARAMARK TOWER
1101 MARKET STREET
PHILADELPHIA, PA 19107-2950

JUN 2 4 2005

In re Application of:
YASUSHI MIZUNO
Serial No.: 10/353,593
Filed: January 29, 2003
Attorney's Docket No.: 26,720

DECISION ON PETITION
TO WITHDRAW HOLDING
OF ABANDONMENT

This is a decision on the petition filed on September 17, 2004, to withdraw the holding of abandonment of the above-identified application under 37 C.F.R. § 1.181.

The petition is **GRANTED**.

This application became abandoned for failure to pay the required issue fee and publication fee within the statutory period of three months from the mailing date of the Notice of Allowance. The Notice of Allowability and the Notice of Allowance and Fee(s) Due were both mailed on March 18, 2004. A Notice of Abandonment was mailed on July 29, 2004.

Petitioner asserts that the Notice of Allowance was never received by the applicants. The petition provides the required showing under MPEP § 711.03(c) to establish nonreceipt of an Office action. It includes a statement from the practitioner stating that the Notice of Allowance of March 18, 2004 was not received and attesting to the fact that a search of the file jacket and docket records indicates that the Notice of Allowance was not received. It also includes a copy of the mail and docket records where the nonreceived Notice of Allowance would have been entered had the Notice of Allowance been received. Finally, it includes a Declaration from the docket clerk of the law firm attesting to the nonreceipt of the Notice of Allowance. The evidence is sufficient to establish that the Notice of Allowance of March 18, 2004 was not received.

Accordingly, the Notice of Abandonment mailed July 29, 2004 is hereby **VACATED** and the holding of abandonment is withdrawn.

The Notice of Allowability originally mailed March 18, 2004 will be remailed. A new Notice of Allowance and Fee(s) Due will be mailed with the Notice of Allowability. The mailing of a new

Notice of Allowance and Fee(s) Due will set a new non-extendable due date for the payment of the issue fee and publication fee.

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

Janice A. Falcone

Janice A. Falcone, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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APR - 9 2004

In re Application of
Steven Roy Lipscomb
Application No. 10/353,619
Filed: January 29, 2003
Attorney Docket No. 320400-00005

: DECISION ON PETITION

This is a decision on the petition to make special filed on September 22, 2003. The $130.00 petition fee has been received.

The petition is granted.

The petition to make special is based upon the existence of an actual infringement. A review of the petition shows that all of the requirements established in MPEP § 708.02(II) for a petition on that grounds have been satisfied. Therefore, petitioner is entitled to have this application handled special in accordance with MPEP § 708.02, subsection styled "Handling of Petitions to Make Special".

Accordingly, the examiner will treat this application as special throughout its prosecution. Prior to the first action on the merits, the examiner will conduct a rigorous search for potentially interfering applications. The interference search will be brought up to date prior to each successive action.

The application is being forwarded to the Supervisory Patent Examiner of Patent Examining Art Unit 3711 who will forward the application to the examiner for action consistent with this Decision.

PETITION GRANTED.

Stephen Marcus, Special Program Examiner,
Technology Center 3700

John S. Paniaguas
Katten Muchin Zavis Rosenman
525 West Monroe Street
Suite 1600
Chicago, Il 60661

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.
10/353,619	01/29/2003	Steven Roy Lipscomb	320400-00005

CONFIRMATION NO. 7555

John S. Paniaguas
KATTEN MUCHIN ZAVIS ROSENMAN
Suite 1600
525 West Monroe Street
Chicago, IL 60661

OC000000012465619

Date Mailed: 04/28/2004

NOTICE REGARDING EARLY PUBLICATION REQUEST

The request for voluntary publication, amended publication, early publication, redacted publication, republication, corrected publication or revised publication has been received for this application. The request, including payment of any necessary fee(s), is in compliance with 37 CFR 1.215, 1.217, 1.219 or 1.221.

The projected publication date is 08/05/2004.

Questions regarding this notice may be directed to the Office of Initial Patent Examination at (703)308-1202

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JOHN S. PANIAGUAS
KATTEN MUCHIN ZAVIS ROSENMAN
SUITE 1600
525 WEST MONROE STREET
CHICAGO, IL 60661

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OFFICE OF PETITIONS

In re Application of :
LISPSCOMB et al. :
Application No. 10/353,619 : DECISION ON PETITION
Filed: January 29, 2003 : TO WITHDRAW
Attorney Docket No. 420400-00006 : 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 30, 2005.

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

A review of the file record indicates that the power of attorney to John S. Paniaguas and all the practitioners of record 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 the undersigned at (571) 272- 4787.

Denise Pothier
Petitions Examiner
Office of Petitions

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

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P.O. Box 1450
Alexandria, VA 22313-1450
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JOHN A. DRAGSETH
FISH & RICHARDSON P.C., P.A.
P.O. BOX 1022
MINNEAPOLIS, MN 55402-1022

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MAR 1 0 2006

OFFICE OF PETITIONS

In re Application of :
LIPSCOMB et al. :
Application No. 10/353,619 :
Filed: January 29, 2003 :
Attorney Docket No. 19649-002001 :

DECISION
ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed December 27, 2005 (certificate of mailing of December 23, 2005), to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply properly and in a timely manner to the final Office action mailed May 24, 2005, which set a shortened statutory period for reply of three (3) months. A two-month extension of time under the provisions of 37 CFR 1.136(a) was obtained, but a proper reply (a Notice of Appeal and appeal fee, an amendment that cancels all the rejected claims or otherwise *prima facie* places the application in condition for allowance, an RCE, or a continuing application under 37 CFR 1.53(b)) was not received. Accordingly, the application became abandoned at midnight on October 24, 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 a Notice of Appeal and requisite of $250; (2) the petition fee of $750; and (3) the statement of unintentional delay have been received. Accordingly, the Notice of Appeal and the fee are accepted as having been unintentionally delayed.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Since the statement contained in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the 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 petition.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $510 extension of time fee submitted with the petition on December 27, 2005

was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

The address of the petitioner varies from that of the address of record. While a courtesy copy of this decision is being mailed to the petitioner's address, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4787.

The application matter is being forwarded to Technology Center AU 3714 for further processing.

Denise Pothier
Petitions Examiner
Office of Petitions

cc: JOHN A. DRAGSETH
FISH & RICHARDSON P.C., P.A.
60 SOUTH SIXTH STREET
SUITE 3300
MINNEAPOLIS, MN 55402

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

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OFFICE OF PETITIONS

In re Application of	:	
Gardner et al.	:	DECISION ON APPLICATION
Application No. 10/353,630	:	FOR
Filed: 29 January, 2003	:	PATENT TERM ADJUSTMENT
Atty. Dkt. No. 58231US002	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 35 U.S.C. 154 AND 37 C.F.R. 1.705(b)," filed on 16 February, 2007, requesting that the Office reconsider the determination of Patent Term Adjustment (PTA) that accompanied the Notice of Allowance mailed on 17 November, 2006. Applicants request that the initial determination of patent term adjustment be corrected from one hundred seventy-three (173) days to six hundred thirteen (613) days.

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

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

BACKGROUND

On 17 November, 2006, the Office mailed a Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. Applicants was advised that the patent term adjustment to date was 173 days. The period of adjustment of 175 days was reduced by 2 days for applicant delay.

In response, applicants timely filed the instant request for reconsideration of the patent term adjustment along with payment of the fee set forth in 37 CFR 1.18(e). Applicants request that the patent term adjustment be corrected to 613 days. The basis for this correction is 37 CFR 1.702(a)(1). Applicants contend that the patent term should be adjusted because a Notice of Allowance was issued in error on 15 February, 2005. Petitioner asserts that the examiner acknowledged in a voicemail to petitioner's counsel on 11 May, 2005, that the Notice of Allowance mailed on 15 February, 2005 was issued in error and would be withdrawn. It is noted that an Office communication withdrawing the application from issue was mailed on 13 May, 2005, and a non-final Office action was subsequently mailed on 30 June, 2006. Petitioners argue that they are entitled to an adjustment in patent term of an additional 440 days for Office delay from 16 April, 2005, to 30 June, 2006.

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

RELEVANT STATUTES AND REGULATIONS

35 U.S.C. 154(b)(1)(A)(i) provides that:

— Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the Patent and Trademark Office to—

(ii) respond to a reply under section 132, or to an appeal taken under section 134, within 4 months after the date on which the reply was filed or the appeal was taken;

37 CFR § 1.702 provides that:

(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:

(2) 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;

37 CFR § 1.703 provides, in pertinent part, that:

(a) The period of adjustment under § 1.702(a) is the sum of the following periods:

(2) The number of days, if any, in the period beginning on the day after the date that is four months after the date a reply under § 1.111 was filed and ending on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first;

OPINION

Applicants' arguments and evidence have been considered, in light of the application history, and it has been determined that the initial period of adjustment pursuant to § 1.702(a)(1) is correct. While the record shows that the application was withdrawn from issue on 13 May, 2005, the showing of record does not support applicants' assertion that the Notice of Allowance mailed on 15 February, 2005, was mailed "in error." Specifically, there is neither any correspondence in the record from the Examiner stating that the Notice of Allowance was mailed in error, nor any reply from applicants on the record to such effect. Furthermore, the letter withdrawing the application from issue states that the application is withdrawn to permit the reopening of prosecution due to the unpatentability of one or more claims.

Further, to this point, with regard to any delay between the mailing of the letter to withdraw the application from issue on 13 May, 2005, and the mailing of the non-final Office action on 30 June, 2006, this is not an administrative delay within the meaning of the rules.

Pursuant to 35 U.S.C. 154(b)(1)(A)(i)(ii), applicants are only entitled to day-to-day restoration of term lost as a result of delay created by the failure of the Office to respond to a reply under section 132, or to an appeal taken under section 134, within 4 months after the date on which the reply was filed or the appeal was taken. In this regard, the Office did respond within four months to petitioner's amendment filed on 16 December, 2004, by issuing the Notice of Allowance mailed on 15 February, 2005. That the application was later withdrawn from issue, and a subsequent Office action mailed on 30 June, 2006, does not negate the fact that the Office did respond to the reply within four months.

Accordingly, the period of adjustment was properly calculated as 175 days, counting the number of days beginning on 29 March, 2004, the day after the date that is fourteen months after the date on which the application was filed, to 20 September, 2004, the date of mailing of the non-final Office action, minus two (2) days for applicant delay in filing a response on 2 October, 2006, three (3) months and two (2) days after mailing of the non-final Office action mailed on 30 June, 2006. See Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term; Final Rule, 65 Fed. Reg. 54366 (September 18, 2000).

Thus, it is concluded that, in this instance, the withdrawal of the application from issue and the mailing of an action under 35 U.S.C. 132 did not constitute a delay by the Office in the issuance of the patent within the meaning of 35 U.S.C. 154(b).

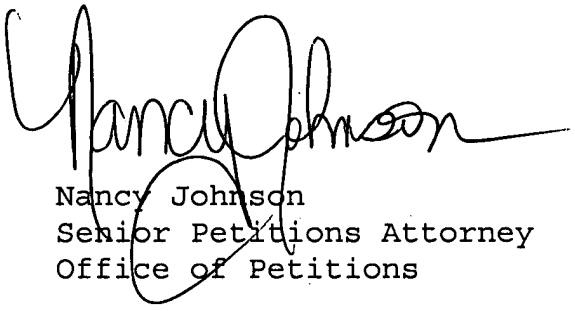
CONCLUSION

In view thereof, the petition is DISMISSED.

The $200.00 fee set forth in 37 CFR 1.18(e) has been charged to Deposit Account No. 09-0442, as authorized. This fee is required and will not be waived.

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

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



Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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INTELLECTUAL PROPERTY DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN, NJ 08830

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OFFICE OF PETITIONS

In re Application of :
Raymond D. Macwhinnie et al :
Application No. 10/353,639 : DECISION ON PETITION
Filed: January 29, 2003 :
Attorney Docket No. W03/002-0 :
(2003P84077US)

This is a decision on the petition, filed April 16, 2009, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

The above-identified application was held abandoned because the period for seeking court review of the decision by the Board of Patent Appeals and Interferences mail August 6, 2008 had expired and there were no allow claims. A Notice of Abandonment was mailed November 3, 2008.

Petitioner asserts that the Notice of Abandonment mailed November 3, 2009 be withdrawn as it was premature because petitioner timely reopened prosecution in accordance with 37 CFR 41.50(b)(1). See MPEP 1214.01.

As the period for reopening prosecution in accordance with 37 CFR 41.50(b)(1) had not expired prior to the filing the amendment on October 3, 2008 the examiner did not follow the provisions of MPEP 1214.01. Accordingly, the Notice of Abandonment mailed November 3, 2008 is withdrawn as premature.

The application is being referred to the Technology Center AU 1797 for further processing in accordance with the above decision. Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/17/08

TO SPE OF : ART UNIT 2817

SUBJECT : Request for Certificate of Correction for Appl. No.: 10353653 Patent No.: 6741131 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

_____
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.

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

Comments: _____

_____

_____

_____

_____

_____ _____

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

SPE /Robert J. Pascal/
Art Unit 2817

UNITED STATES PATENT AND TRADEMARK OFFICE

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MACMILLAN SOBANSKI & TODD, LLC
ONE MARITIME PLAZA FIFTH FLOOR
720 WATER STREET
TOLEDO OH 43604-1619

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DEC 0 6 2006

OFFICE OF PETITIONS

In re Application of :
HARPEN, et al. :
Application No. 10/353,655 : DECISION ON PETITION
Filed: January 29, 2003 : TO WITHDRAW
Attorney Docket No. 36525 : 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 August 11, 2006.

The request is **APPROVED**.

A review of the file record indicates that Donald R. Fraser of FRASER MARTIN & MILLER LLC: (1) does not have power of attorney in this patent application; and (2) has been employed or otherwise engaged in the proceedings in this patent application. In view of the present decision, Donald R. Fraser of FRASER MARTIN & MILLER LLC has been withdrawn from the present application and may not prepare or submit papers under 37 C.F.R. § 1.34, or correspond in any manner in this application unless appointed in an acceptable power of attorney under 37 C.F.R. § 1.32(b).

The attorneys of MACMILLAN SOBANSKI & TODD LLC remain of record.

All future communications from the Office will continued to be directed to the first copied address below until otherwise properly notified by the applicant.

There is an outstanding Office action mailed July 12, 2006 that requires a reply from the applicant.

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **MACMILLAN SOBANSKI & TODD, LLC**
ONE MARITIME PLAZA FIFTH FLOOR
720 WATER STREET
TOLEDO OH 43604-1619

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/23/08

TO SPE OF : ART UNIT 2837 (2800)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/353,656 Patent No.: 7,098,392

Attn: Marlo Fletcher

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 changes as requested in the COCIN?**

Ernest C. White, LIE
Certificates of Correction Branch
703-308-9390 ext.122

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☑ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: This is approved. Thank You.

Marlo Fletcher

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

PERKINS COIE LLP
PATENT-SEA
P.O. BOX 1247
SEATTLE, WA 98111-1247

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In re Patent No. 7,098,392 :
Issue Date: August 29, 2006 :
Application No. 10/353,656 : ON PETITION
Filed: January 29, 2003 :
Attorney Docket No. 32052-9168US7 :

This is a decision on the petition filed March 5, 2007, which is being treated as a petition under 37 CFR 3.81(b) to correct the name of the assignee on the front page of the above-identified patent by way of a certificate of correction.

The petition is **DISMISSED**.

Petitioner requests issuance of a certificate of correction in the name of "David H. Sitrick."

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 **before issuance of the patent**, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter [emphasis added]. *See also* MPEP 1481.01.

The petition cannot be approved because no certificate of correction requesting to add the assignee David H. Sitrick to the front page of the patent.

Telephone inquiries concerning this decision on petition should be directed to April M. Wise at (571) 272-1642.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/12/09

TO SPE OF : ART UNIT 2181 Jesse Moll

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/353662 Patent No.: 7191316

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

H. Rhy
Certificates of Correction Branch
703-308-9390 ext. _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☑ **Approved**	All changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: No new matter is introduced and the scope or meaning of the claims are changed.

Alford W. Kindred
SPE

2181
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20080618

DATE : June 18, 2008

TO SPE OF : ART UNIT 2622

SUBJECT : Request for Certificate of Correction on Patent No.: 7298414

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

SPE: /Lin Ye/ Art Unit 2622

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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GREENBERG TRAURIG (HOU)
INTELLECTUAL PROPERTY DEPARTMENT
1000 Louisiana Street
Suite 1700
Houston, TX 77002

Mail Date: 04/20/2010

Applicant	: Farouk Shami	: DECISION ON REQUEST FOR
Patent Number	: 7638117	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/353,688	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/29/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **912** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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MAY 18 2007

OFFICE OF PETITIONS

ROBERT M. SCHWARTZ, P.A.
P.O. BOX 221470
HOLLYWOOD FL 33022

In re Application of :
Alfredo Jose Narain et al. :
Application No. 10/353,695 : ON PETITION
Filed: January 29, 2003 :
Attorney Docket No. MICROD-001C :

This is a decision on the petition under 37 CFR 1.137(b), filed November 6, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, May 4, 2005, which set a shortened statutory period for reply of three (3) months. An extension of time for (2) two months under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on October 5, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment; (2) the petition fee of $750; and (3) an adequate 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.

Telephone inquiries concerning this decision should be directed to Terri Williams at (571) 272-2991.

The application file is being referred to Technology Center AU 2665 for appropriate action on the concurrently filed Amendment.

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

Raymond J. Lillie, Esq.
c/o Carella, Byrne, Bain, Gilfillan,
Cecchi, Stewart & Olstein
6 Becker Farm Road
Roseland NJ 07068

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APR 2 8 2009

OFFICE OF PETITIONS

In re Application of :
FREWIN et al. :
Application No. 10/353,708 : ON APPLICATION FOR
Filed: January 29, 2003 : PATENT TERM ADJUSTMENT
Attorney Docket No. 695458-73 :

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)" filed February 4, 2009. Applicant requests that the determination of patent term adjustment be corrected from 725 days to 1367 days. Applicant requests this correction 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).

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, a decision is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within three years. See 37 CFR 1.703(b). (This is true even in this instance where a request for continued examination (RCE) was filed. The computer will not undertake the § 1.703(b) calculation until the actual date of issuance of the patent has been determined. Accordingly, it is still too soon to make a determination as to the correctness

of any period of adjustment that will or will not be entered pursuant to § 1.703(b)).

Applicant is given **TWO (2) MONTHS** from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within three years. A copy of this decision should accompany the request. Applicant may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of § 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

Rather than file the request for reconsideration of Patent Term Adjustment at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term pursuant to 37 CFR 1.705(d). The USPTO notes that it does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent and accordingly, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent.

It is acknowledged that applicant is correct that any period of adjustment will be entered in light of 35 U.S.C. 154(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY, which provides that:

> Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including —
>
> (i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

It is noted that a Request for Continued Examination (RCE) was filed in this application on June 24, 2008.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:08042005

DATE : August 4, 2005

TO SPE OF : ART UNIT 3727

SUBJECT : Request for Certificate of Correction on Patent No.: 6808099

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: Nathan Newhouse **Art Unit** 3727

UNITED STATES PATENT AND TRADEMARK OFFICE

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SMITH HOPEN, PA
180 PINE AVENUE NORTH
OLDSMAR FL 34677

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JAN 16 2009

In re Application of
Juan-Sanchez-Ramos et al
Application No.10/353,742
Filed: January 27, 2003
Attorney Docket No. 1372.625.PRCCN2

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 3, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an RCE and a previously filed amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final rejection mailed June 11, 2007, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 1649 for appropriate action by the Examiner in the normal course of business.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

10/353 752

C7C

OIPE IAP51 FEB 2 1 2006 PATENT & TRADEMARK OFFICE

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s): Warren M. Farnworth

Patent No.: 6,770,514 B2

Issued: August 3, 2004

For: STEREOLITHOGRAPHIC METHOD FOR FABRICATING HERMETIC SEMICONDUCTOR DEVICE PACKAGES AND SEMICONDUCTOR DEVICES INCLUDING STEREOLITHOGRAPHICALLY FABRICATED HERMETIC PACKAGES

Attorney Docket No.: 2269-4212.5US

CERTIFICATE OF MAILING

I hereby certify that this correspondence along with any attachments referred to or identified as being attached or enclosed is being deposited with the United States Postal Service as First Class Mail on the date of deposit shown below with sufficient postage and in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

February 17, 2006
Date

Signature

Erika Gandre
Name (Type/Print)

Certificate
FEB 2 3 2006
of Correction

REQUEST FOR CERTIFICATE OF CORRECTION OF PATENT FOR APPLICANT'S MISTAKES (37 C.F.R. § 1.323) AND PATENT OFFICE MISTAKES (37 C.F.R. § 1.322)

Attn.: Certificate of Corrections Branch
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

COCX

Sir:

It is noted that a combination of Applicant and Patent Office errors appear in this patent of a typographical nature or character and correction thereof does not involve such changes in the patent as would constitute new matter or would require reexamination. A certificate of correction in the form attached hereto is requested.

Please note that an Amendment Pursuant to 37 C.F.R. § 1.312(a) (copy enclosed) was filed concurrently with the issue fee on February 26, 2004, but was apparently not entered before issuance of the patent. Attached is a copy of the previously-filed Amendment Pursuant to 37

02/22/2006 AWONDAF1 00000092 6770514
01 FC:1811 100.00 OP

OK to enter DA 3/22/06

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 7

KNOBBED, MARTENS, OLSON &
BEAR, LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

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JUL 0 8 2004

OFFICE OF PETITIONS

In re Application of :
Chen et al. :
Application No. 10/353,777 : ON PETITION
Filed: January 27, 2003 :
Attorney Docket No. NAGANO.034A :

This decision concerns the June 17, 2004 petition under 37 CFR 1.137(b).

The petition is **GRANTED.**

The application became abandoned on June 12, 2003 for failure to timely submit the application basic filing fee and a properly signed oath or declaration as required by the April 11, 2003 "Notice to File Missing Parts of Nonprovisional Application."

The instant petition encloses a signed declaration; the $665 petition fee, the $385 basic filing fee and the $65 surcharge for late filing of an acceptable oath or declaration, all in small entity amounts; and states that the entire delay in filing these items from the due date until the filing of a grantable §1.137(b) petition was unintentional. The petition is thus granted.

Finally, as requested, the new power of attorney and the new correspondence address have been entered and made of record.

The file is being forwarded to Technology Center 2600 for examination in due course.

Telephone inquiries should be directed to the undersigned at (703) 308-0763.

RC Tang
Petitions Attorney
Office of Petitions

Attachment: Notice of Acceptance of Power of Attorney (accepting 6/17/04 Power of Attorney)

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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KNOBBE MARTENS OLSON &
BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

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FEB 2 2 2007

OFFICE OF PETITIONS

In re Application of :

Chen, et al. :

Application No. 10/353,777 : DECISION ON PETITION

Filed: January 27, 2003 :

Attorney Docket No. NAGACO.034A

This is a decision on the petition under 37 CFR 1.137(b), filed August 14, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the non-final Office action mailed December 14, 2005, which set a shortened statutory period for reply of three (3) months. No extension of time pursuant to 37 CFR 1.136(a) was obtained within the statutory period. Accordingly, the application became abandoned on March 15, 2006. A Notice of Abandonment was mailed on June 22, 2006.

The amendment filed August 14, 2006, is noted and made of record.

The application is being forwarded to Technology Center 1700, GAU 1743 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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BALZAN INTELLECTUAL PROPERTY LAW, PC
674 COUNTY SQUARE DR, SUITE 105
VENTURA, CA 93003

MAILED

MAR 06 2009

OFFICE OF PETITIONS

In re Application of :
John M. Carnahan :
Application No. 10/353,785 : DECISION ON PETITION
Filed: January 28, 2003 : TO WITHDRAW
Attorney Docket No. 600189-316 : 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 20, 2006.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney BALZAN INTELLECTUAL PROPERTY LAW, PC has been revoked by the assignee of the patent application on June 15, 2006. Accordingly, the request to withdraw under 37 CFR 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Denise Williams at 571-272-8930.

Carl Friedman
Petitions Examiner
Office of Petitions

cc: YAHOO! INC.
C/O Ostrow Kaufman & Frankl LLP
The Chrysler Building
405 Lexington Avenue, 62nd Floor
NEW YORK NY 10174

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Eric K. Satermo
P.O. Box 19099
Irvine CA 92623-9099

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SEP 19 2005

OFFICE OF PETITIONS

In re Application of
FRED N. MIEKKA
Application No.: 10/353,798
Attorney Docket No.: 9811-09

: DECISION on PETITION
:
: UNDER 37 CFR 1.137(b)
:

This is a decision on the petition under 37 CFR 1.137(b), filed May 2, 2005 to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice of Allowance mailed October 15, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned at midnight on January 18, 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 and publication fees, (2) the 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.

The application is being referred to Publishing Division.

Telephone inquiries concerning this decision should be directed to Cynthia Kratz at (571) 272-3286 or in her absence, the undersigned at (571) 272-3217.

Frances Hicks for

Brian Hearn
Petitions Examiner
Office of Petitions

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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FISH & RICHARDSON P.C.
P.O. Box 1022
MINNEAPOLIS, MN 55440-1022

Mail Date: 04/20/2010

Applicant	: Bradley Edelman	: DECISION ON REQUEST FOR
Patent Number	: 7617278	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/353,811	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/29/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1107** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 7

EMCH, SCHAFFER , SCHAUB
& PORCELLO CO., L.P.A.
PO BOX 916
TOLEDO, OH 43697

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JUN 1 6 2003

OFFICE OF PETITIONS

In re Application of
Morey et al.
Application No. 10/353,813
Filed: January 29, 2003
Attorney Docket No. 02308

ON PETITION

This decision concerns the May 27, 2003 petition under 37 CFR 1.47(a).

The petition is **DISMISSED.**

Two inventors are named in this application which, upon filing, did not include an oath or declaration. A Notice to File Missing Parts of Nonprovisional Application was mailed on March 12, 2003, giving Applicants an extendable 2-month period to submit, *inter alia*, a properly signed oath/declaration.[1] A declaration signed by only 1 of the 2 named-inventors was filed on April 19, 2003 ("4/19/03 Declaration"), without a proper petition under 37 CFR 1.47. Accordingly, a "Notice of Incomplete Reply (Nonprovisional)" was mailed on May 12, 2003, stating that the period for submitting a properly executed oath/declaration remained that set forth in the March 12, 2003 Notice of Missing Parts.[2] The instant petition was then filed along with a request for a 1-month extension of time and the requisite extension-of-time fee.[3]

The petition asserts that the non-signing inventor, Russell S. Vander Zwaag ("Vander Zwaag"), refuses to join in this application, and requests that the available inventor, Kevin R. Morey ("Morey"), be allowed to file the application on behalf of himself and Vander Zwaag.

Morey may file the application on behalf of himself as well as Vander Zwaag, provided that a *bona fide* attempt has been made to present to Vander Zwaag, for review and signature, **a copy of the entire application (specification including claims; drawings),**[4] and that the latter refuses to

---

[1] Also missing was the basic filing fee for this application.

[2] The basic filing fee was filed on 4/19/03.

[3] $55; charged to Deposit Account No. 15-0825 as authorized in the petition.

[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.).

join in this application.[5]

To show that Vander Zwaag has refused to join in this application despite such a *bona fide* attempt, the petition must include, *inter alia*, a statement of facts, signed by a person with firsthand knowledge of the facts recited therein, concerning the circumstances of the presentation of the application papers to Vander Zwaag at his last known address,[6] and his subsequent refusal.[7]

The petition and the accompanying exhibits indicate that on March 4, 2003, Morey mailed Vander Zwaag a letter that enclosed the application declaration and an assignment. There is no evidence that Vander Zwaag was ever provided with a copy of the entire application (specification including claims; drawings) prior to the alleged refusal by Vander Zwaag to join in this application. Consequently, the Office is not able to conclude that a *bona fide* attempt has been made to present to Vander Zwaag a copy of the entire application (specification including claims; drawings), as required by 37 CFR 1.47. The petition is thus dismissed.

To prevent abandonment of this application,[8] one of the following must be submitted within **TWO MONTHS** of the mailing date of this decision:[9]

(1) an oath/declaration properly signed by both inventors, including Vander Zwaag;[10]

or

(2) a renewed §1.47(a) petition (no fee) that includes proper statement(s)[11] of **facts** establishing that a *bona fide* attempt was made to present to Vander Zwaag, at his last known address, a copy of the entire application (**specification including**

---

[5] See MPEP section 409.03(d) (Rev. 1, Feb. 2003) (Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted . . . When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts.).

[6] 37 CFR 1.47(a); MPEP section 409.03(e) (Rev. 1, Feb. 2003).

[7] *Id.*

[8] See 37 CFR 1.53(f) (If an application which has been accorded a filing date . . . does not include an oath or declaration . . . pursuant to §1.63 . . . , applicant will be notified and given a period of time within which to . . . file an oath or declaration . . . to avoid abandonment).

[9] Unless proper extension(s) of time under 37 CFR 1.136(a) is (are) obtained.

[10] **It is sufficient to supplement the 4/19/03 Declaration with a declaration that identifies the claimed invention and both inventors, but is signed only by Vander Zwaag.**

[11] **Statements based on hearsay will not be considered.**

claims; drawings), and that Vander Zwaag nevertheless refused to sign the declaration.

The renewed §1.47(a) petition should be addressed as follows:

by mail/by hand:	Commissioner for Patents, USPTO Office of Petitions Crystal Plaza Four, Suite CP4-3C23 2201 South Clark Place Arlington, VA 22202
by fax:	(703) 308-6916 Attn: Office of Petitions

Finally, the Office acknowledges receipt of the $65 surcharge (small entity) for failure to submit an acceptable oath/declaration upon filing of the application. Also, as authorized in the petition, the $130 petition fee has been charged to Deposit Account No. 15-0825.

Telephone inquiries should be directed to the undersigned at (703) 308-0763.

RC Tang
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Russell S. Vander Zwaag
14700 Creek Edge Drive
Holland, MI 49424

COPY MAILED
AUG 04 2003
OFFICE OF PETITIONS

In re Application of
Morey et al.
Application No. 10/353,813
Filed: January 29, 2003
For: MANUAL SCRUBBER WITH VACUUM PICK-UP

Dear Mr. Vander Zwaag,

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a) (Rules of Practice for the United States Patent and Trademark Office [USPTO]). Should a patent be granted on the application, you will be designated therein as a joint inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost pursuant to 37 CFR 1.19), or make your position of record in the application. Alternatively, you may do any of the aforementioned through an attorney or agent registered to practice before the USPTO and presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Requests for information regarding this application should be directed to the File Information Unit at (703) 308-2733. For information on how to order a copy of the application or a specific paper in the application, contact the Certification Division at (703) 308-9726 or 1-(800) 972-6382 (outside the Washington DC area). Telephone inquiries regarding this letter should be directed to the undersigned at (703) 308-0763.

RC Tang
Petitions Attorney
Office of Petitions
Office of the Commissioner
for Patents

cc: Philip M. Rice, Esq.
Emch, Schaffer, Schaub & Porcello Co., L.P.A.
PO Box 916
Toledo, OH 43697

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

EMCH, SCHAFFER, SCHAUB
& PORCELLO CO., L.P.A.
PO BOX 916
TOLEDO, OH 43697

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AUG 04 2003

OFFICE OF PETITIONS

In re Application of
Morey et al.
Application No. 10/353,813
Filed: January 29, 2003
Attorney Docket No. 02308

: DECISION ACCORDING STATUS
: UNDER 37 CFR 1.47(a)

This decision concerns the July 23, 2003 renewed petition under 37 CFR 1.47(a).

The petition is **GRANTED.**

The previous petition under 37 CFR 1.47(a), filed on May 27, 2003, was dismissed on June 16, 2003 for failing to show that a copy of the entire application (specification including claims; drawings) had been provided to the non-signing inventor, Russell S. Vander Zwaag ("Vander Zwaag"), before the conclusion was drawn that he refused to join in this application.

The instant renewed petition and the accompanying exhibits demonstrate that a copy of the entire application was mailed to Vander Zwaag's last known address on June 27, 2003, and that as of July 22, 2003, when counsel for Assignee executed his "Statement of Facts in Support of Filing," no reply was received from Vander Zwaag regarding this application.

The Office notes that the June 27, 2003 papers were received on June 30, 2003 at Vander Zwaag's last known address by a "Michael Henjil." Since counsel's April 1, 2003 letter to the same address was received on April 4, 2003 by a "Nancy Vander Zwaag," the June 27, 2003 papers are presumed to have been either received by Vander Zwaag at his last known address, or at least forwarded to him.

In addition, the instant renewed petition encloses a statement of facts by Kevin R. Morey ("Morey"), Vander Zwaag's co-inventor who executed the application declaration. Morey states that he met Vander Zwaag at a trade show on March 10, 2003, and that Vander Zwaag indicated his unwillingness to sign the application declaration unless compensated by Assignee.

In view of the above, the Office concludes that a *bona fide* attempt was made to secure Vander Zwaag's signature on the application declaration, and that the latter expressly refused to join in the application. The renewed petition is thus granted. The "Declaration - Utility or Design Patent Application" signed by Morey and submitted on April 18, 2003 is hereby accepted.

The application is now complete.

As provided in 37 CFR 1.47(c), the Office will forward notice of the filing of this application to Vander Zwaag at his last known address provided in the petition:

14700 Creek Edge Drive
Holland, MI 49424

Notice of the filing of this application will also be published in the *Official Gazette*.

The application file is being forwarded to Technology Center 1700 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

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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PEARNE & GORDON LLP
1801 EAST 9TH STREET
SUITE 1200
CLEVELAND, OH 44114-3108

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MAR 04 2010

In re Application of	:	
Stephen P. Vossler	:	DECISION ON PETITION
Application No. 10353,815	:	TO WITHDRAW
Filed: January 27, 2003	:	FROM RECORD
Attorney Docket No. AC-09136-US-TR	:	

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 4, 2010.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that Pearne & Gordon LLP was revoked as power of attorney by the assignee of the patent application on January 12, 2010. 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 571-272-6059.

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: WPAT, PC
2030 MAIN STREET
SUITE 1300
IRVINE CA 92614

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

Friedrich Kueffner
317 Madison Avenue, Suite 910
New York, NY 10017

COPY MAILED

MAY 15 2003

OFFICE OF PETITIONS

In re Application of :
Wolfgang Heukamp :
Application No. 10/353,822 :
Filed: January 29, 2003 : DECISION ON PETITION
Attorney Docket No. MY-21 :

This is a decision on the Petition, filed March 24, 2003, requesting the application be accorded a filing date of January 29, 2003, including 3 sheets of drawings.

The petition is **granted**.

The application was filed on January 29, 2003. However, on March 10, 2003, the Initial Patent Examination Division mailed a Notice of Omitted Item(s) in a Nonprovisional Application, noting that the application had not been accorded a filing date because the application had been deposited without drawings.

In response, Petitioner files the instant petition wherein Petitioner argues that three (3) sheets of drawings were filed with the application filing on January 29, 2003, and were received by this Office as evidenced by the return-receipt postcard. In support, Petitioner provides a copy of a return receipt postcard acknowledging receipt of, inter alia, 3 sheets of drawings on January 29, 2003.

A review of the return receipt postcard reveals that Petitioner is correct. The postcard acknowledges receipt of 3 sheets of drawings on January 29, 2003. Petitioner has also re-submitted the 3 sheets of drawings with the instant petition.

Evidence of receipt of any correspondence filed in the Patent and Trademark Office can be obtained by submitting a self-addressed postcard properly itemizing and identifying the paper or papers being filed. Upon receipt of the correspondence, the Patent and Trademark Office will check the listing on the post card against the papers submitted, making sure that all items listed are present and will then stamp the postcard with an Official date stamp and place the postcard in the outgoing mail. "A postcard receipt which itemizes and properly identifies the papers which

are being filed serves as *prima facie* evidence of receipt in the PTO of all items listed thereon by the PTO." MPEP § 503. The copy of page 8 of the specification, supplied on March 17, 2003, will be used for examination purposes.

No petition fee is required. A refund of the petition fee, $130.00, has been scheduled.

The application will be returned to the Initial Patent Examination Division for further processing as a nonprovisional application with a filing date of January 29, 2003, and an indication that 3 sheets of drawings were present on filing, using the 3 sheets of drawings filed on March 24, 2003.

Telephone inquiries concerning this matter should be directed to Petitions Attorney Derek L. Woods at (703) 305-0014.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

Derek L. Woods
Petitions Attorney
Office of Petitions

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 6-4-03	2 Serial/Patent # 60/353,822

	3 Please refund the following fee(s):	4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
	Extension of Time			$
	Notice of Appeal/Appeal			$
✓	Petition	3	3-24-03	$130.00
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND: $130.00

8 TO BE REFUNDED BY:

- [ ] Treasury Check
- [ ] Credit Deposit A/C #:

9 11--1835

10 REASON:

- [ ] Overpayment
- [ ] Duplicate Payment
- [✓] No Fee Due (Explanation):

Office error

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: Derek Woods TITLE: Attorney

SIGNATURE: Derek Woods PHONE: 305-0014

OFFICE: Petitions

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: _____ DATE: _____

Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to:

Office of Finance
Refund Branch
Crystal Park One, Room 802B

FORM PTO 1577
(01/90)

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Commissioner for Patents
United States Patent and Trademark Office
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FEB 22 2010

OFFICE OF PETITIONS

FRIEDRICH KUEFFNER
317 MADISON AVENUE, SUITE 910
NEW YORK, NY 10017

In re Patent No: 7,028,865
Issue Date: April 18, 2006
Application No. 10/353,822
Filed: January 29, 2003
Attorney Docket No. MY-21

NOTICE

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.

Petitioner should note that the request is signed by the attorney of record, however it does not set forth an USPTO registration number. Petitioner should note that all documents submitted before the United States Patent and Trademark Office by a registered patent attorney must contain his/her registration number.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-6059.

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 4

Knobbe Martens Olson & Bear, LLP
2040 Main Street
Fourteenth Floor
Irvine, CA 92614

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OCT 2 1 2003

OFFICE OF PETITIONS

In re Application of
Phillips, et al.
Application No. 10/353,825
Filed: January 28, 2003
Attorney Docket No. FLEXFT.79CP1C1

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.10, filed May 23, 2003, requesting that the above-identified application be accorded a filing date of January 28, 2003, rather than the presently accorded filing date of January 27, 2003.

Petitioner alleges that the application was deposited in Express Mail service on January 28, 2003. In support of the allegation, the petition is accompanied by a copy of Express Mail label No. EV211916155US. The Express Mail label contains a United States Postal Service (USPS) stamp of January 28, 2003. The same Express Mail label number was placed on the original application papers located in the official file.

In view of the above, the petition is **granted**. No petition fee is necessary.

This application file will be forwarded to the Office of Initial Patent Examination for correction of the filing date to January 28, 2003.

Telephone inquiries should be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No. 8

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

COPY MAILED

SEP 0 1 2004

OFFICE OF PETITIONS

In re Application of :
Worthington et al. :
Application No. 10/353,839 : ON PETITION
Filed: January 28, 2003 :
Attorney Docket No. NAGACO.035A :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed August 16, 2004, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed March 12, 2003. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on May 13, 2003. A Notice of Abandonment was mailed on February 2, 2004.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

The file is now being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries should be directed to the undersigned at (703) 306-0482. Any telephone inquiries after September 28, 2004 should be directed to the undersigned at (571) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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BOZICEVIC, FIELD & FRANCIS LLP
1900 UNIVERSITY AVENUE
SUITE 200
EAST PALO ALTO, CA 94303

COPY MAILED

JUL 12 2006

OFFICE OF PETITIONS

In re Application of :
Thomas Ryll, et al. :
Application No. 10/353,844 : DECISION ON REQUEST
Filed: January 28, 2003 : TO WITHDRAW
Attorney Docket No. ABGX-003CIP : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed March 31, 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 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 Sherry D. Brinkley at 571-272- 3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Conferee: Amelia Au

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NEEDLE & ROSENBERG, P.C.
SUITE 1000
999 PEACHTREE STREET
ATLANTA, GA 30309-3915

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JUL 12 2006

OFFICE OF PETITIONS

In re Application of :
James Skinner :
Application No. 10/353,849 : ON PETITION
Filed: January 29, 2003 :
Attorney Docket No. 22118.0002U1 :

This is a decision on the petition, filed July 10, 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 **DISMISSED as moot**.

37 CFR 1.313(d) states that "A petition under this section [37 CFR 1.313(c)] will not be effective to withdraw the application from issue unless it is actually received and granted by the appropriate officials **before the date of issue**." In this case, the petition was not received by facsimile transmission in the Office of Petitions until 5:58pm on July 10, 2006. Consequently the petition was not referred to the appropriate official for a decision until July 11, 2006, the date upon which the above-identified application issued as U.S. Patent No. 7,076,288.

The inconvenience caused petitioner in this matter is sincerely regretted. However, one of the benefits for allowing applicants to hand carry or fax petitions to withdraw from issue directly to the Office of Petitions was to provide the Office with sufficient time to process the petition. *(See Revised Procedures for Papers Requiring Immediate Attention (Hand-Carried and Facsimile Transmissions), 1279 Off. Gaz. Pat. Office 149 (Feb. 24, 2004); Revised Procedures for Papers Requiring Immediate Attention, 1280 Off. Gaz. Pat. Office 917 (March 23, 2004).*

The request for continued examination (RCE) filed concurrently with the petition is improper in view of the issuance of the instant application into a patent on July 11, 2006. The RCE and the information disclosure statement (IDS) will remain in the file of the above-identified application without further consideration. See 37 CFR 1.97(I).

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5-10-05

TO SPE OF : ART UNIT_____

SUBJECT : Request for Certificate of Correction on Patent No.: 6846132

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.

Check. Notice Terminal Disclaimer

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:

Approved

SPE

3673
Art Unit

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

JUN 25 2003

UR

PAPER NO. 4

In re Application of
Joseph J. Tabor
Serial No:10/353,871
Filed: January 29, 2003
For: METHOD OF CONVERTING FEEDWATER TO FRESH WATER

PETITION UNDER
M.P.E.P. 708.02, IV

This is in response to the petition filed January 29, 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

Robert W. Becker & Associates
707 Highway 66 East, Suite B
Tijeras, NM 87059

OIPE JC67 MAY 10 2004 PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: George F. Bulger

Examiner: Robert H. Spitzer

Serial No.: 10/353,893

Group Art Unit: 1724

Filed: January 29, 2003

Docket: 15236

For: VELOCITY STACK AIR SYSTEM FOR MOTORCYCLES

Dated: May 6, 2004

Confirmation No.: 7139

Approved
Jacqueline M. Stone, Director
Technology Center 1700

RECEIVED
MAY 14 2004
TC 1700

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

SEP - 2 2004

REQUEST FOR WITHDRAWAL AS ATTORNEY PURSUANT TO THE PROVISIONS OF 37 C.F.R. §10.40(c)

Sir:

I, Leopold Presser, a member of and on behalf of the firm of Scully, Scott, Murphy & Presser, having offices at 400 Garden City Plaza, Garden City, New York 11530, and the attorneys listed in the Declaration and Power of Attorney (Frank S. DiGiglio; Reg. No. 31,346, Leopold Presser; Reg. No. 19,827, William C. Roch; Reg. No. 24,972, Kenneth L. King; Reg. No. 24,223, Edward W. Grolz; Reg. No. 33,705, Peter I. Bernstein; Reg. No. 43,497, Paul J. Esatto, Jr.; Reg. No. 30,749, John S. Sensny; Reg. No. 28,757, Mark J. Cohen; Reg. No. 32,211, Steven Fischman; Reg. No. 34,594, Thomas Spinelli; Reg. No. 39,533) attorneys of record for the applicant in this application, respectfully requests permission to withdraw from all further responsibilities and representation in this case, in accordance with the provisions of 37 C.F.R. §1.36.

CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8(a)

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner of Patents, Alexandria, VA 22313-1450 on May 6, 2004.

Dated: May 6, 2004

Leopold Presser

The basis and reason for this request are set forth hereinbelow.

A copy of our letter of even date to the applicant, notifying the latter of this Request for Withdrawal, is herewith enclosed.

LAST KNOWN ADDRESS OF CLIENT

The last known mailing address of the applicant (inventor) is as follows:

Mr. George F. Bulger
Designs By Novello
505 North Main Street
Port Chester, New York 10573

BASIS FOR WITHDRAWAL REQUEST

The basis for the request for withdrawal is 37 C.F.R. 10.40(c) § (vi).

The applicant's attorneys respectfully request that they be permitted to withdraw as the attorneys of record inasmuch as the applicant has failed to respond, notwithstanding numerous telephone and written requests, to submit overdue and extensive payments for fees and services rendered, presently amounting to a total of approximately $6,000.00, dating back to February 2002. In particular, numerous telephone requests, and also written reminders to the applicant, Mr. Bulger, were forwarded to him with regard to the lack of payments and the extensive and evasive delays in his responding, citing that his correspondence was "misplaced" or lost, and requesting numerous duplicate debit notes to be forwarded to him (which we sent by facsimile), but which did not result in any significant payments from Mr. Bulger.

Finally, after the expenditures of fruitless efforts in attempting to obtain payment, in March of 2004, the matter was referred to a collection agency, claiming unpaid balances of approximately $6,200.00, whereupon the present applicant, regardless of the fact that this has now been turned over for legal collecting action, forwards occasional minor payment amounts in the amounts of between $100.00 to $120.00, none of which form any significant portion of the amounts which are due to the firm for services and disbursements rendered.

Moreover, although the applicant has been advised to forward the payment to the collection agency, inasmuch as we are liable for their fees, he has completely ignored those instructions, and in order to avoid further financial burdens and liabilities on our part, the present request is being submitted, so as to relieve our firm from further responsibilities in connection with this application.

A copy of an Office Action, dated April 1, 2004, including cited prior art, has been forwarded to the applicant, together with a cover letter dated May 5, 2004, explaining that a response is due by **July 1, 2004**, which can be extended until **October 1, 2004**.

Furthermore, inasmuch as applicant's attorneys have clearly established the necessary requisites for the Request for Withdrawing Representation of the applicant, favorable consideration thereof is earnestly solicited.

ALLOWANCE OF TIME FOR CLIENT TO ACT

The present application is currently under a Non-Final Rejection in view of the Office Action received from the United States Patent and Trademark Office, dated April 1, 2004, concerning which the time for responding has been set by the Examiner to expire on July 1, 2004. That term is extendable under 37 C.F.R. §1.136(a) until October 1, 2004 upon the payment of appropriate official extension fees. At this time, no fees are required and the amount of time for response, including any extensions under 37 C.F.R. §1.136(a) is at least five (5) months.

NOTIFICATION OF CLIENT

In accordance with 37 C.F.R. §10.40(a), a copy of this request is currently being forwarded to the applicant. A copy of the letter to the applicant is attached. This request is being submitted in triplicate.

Respectfully submitted,

Leopold Presser
Registration No. 19,827

SCULLY, SCOTT, MURPHY & PRESSER
400 Garden City Plaza
Garden City, New York 11530
(516) 742-4343

LP:jy
Enclosures

MAY 10 2004

TRANSMITTAL LETTER (General - Patent Pending)	Docket No. 15236

In Re Application Of: **George F. Bulger**

Serial No.	Filing Date	Examiner	Group Art Unit
10/353,893	January 29, 2003	Robert H. Spitzer	1724

Title: **VELOCITY STACK AIR SYSTEM FOR MOTORCYLCES**

CONFIRMATION NO.: 7139

TO THE COMMISSIONER FOR PATENTS:

Transmitted herewith is: **REQUEST FOR WITHDRAWAL AS ATTORNEY PURSUANT TO THE PROVISIONS OF 37 C.F.R. §10.40(c)**

RECEIVED
MAY 14 2004
TC 1700

in the above identified application.

- ☒ No additional fee is required.
- ☐ A check in the amount of is attached.
- ☒ The Director is hereby authorized to charge and credit Deposit Account No. **19-1013/SSMP** as described below.
  - ☐ Charge the amount of
  - ☒ Credit any overpayment.
  - ☒ Charge any additional fee required.

Signature

Dated: **May 6, 2004**

Leopold Presser
Registration No. : 19,827

Correspondence Address
Customer No. 23389

cc: **LP:jy**

I certify that this document and fee is being deposited on 5/6/04 with the U.S. Postal Service as first class mail under 37 C.F.R. 1.8 and is addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Signature of Person Mailing Correspondence

Leopold Presser

Typed or Printed Name of Person Mailing Correspondence

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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MUETING, RAASCH & GEBHARDT, P.A.
P.O. BOX 581415
MINNEAPOLIS MN 55458

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JUL 21 2006

OFFICE OF PETITIONS

In re Application of :
Sharma et al. :
Application No. 10/353,901 : ON PETITION
Filed: January 29, 2003 :
Attorney Dck't. No. 285.00020101 :

This is a decision on the communications filed January 13, 2006, and supplemented June 23 and June 26, 2006, which are collectively being treated as a petition under 37 CFR 1.183 requesting waiver of 37 CFR 1.48(a)(2) for acceptance of an amendment to the inventive entity and acceptance of the concurrently filed supplemental declaration lacking execution by the legal representative of the deceased inventor.

The petitions are **granted**.

On February 7, 2006, the primary examiner favorably considered the petitions filed under 37 CFR 1.48 and accepted the amendment to the inventive entity. Where, as here, there is a concurrent request for waiver of the rules under 37 CFR 1.183, the intervention of the Office of Petitions is also required. See MPEP 201.03. In view of th showings adduced as to ownership and the other circumstances recounted in the petition, it is agreed that justice would be served by waiver of the rules. This decision ratifies the Office communication of February 7, 2006.

This allowed application is being referenced to the Office of Publications.

Telephone inquiries relative to this decision should be directed to the undersigned at (571) 272-3217.

Brian Hearn
Petitions Examiner
Office of Petitions

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JUN - 3 2005

LESLIE GLADSTONE RESTAINO, ESQ.
BROWN RAYSMAN MILLSTEIN FELDER & STEINER LLP
163 MADISON AVENUE
P.O. BOX 1989
MORRISTOWN NJ 07962-1989

In re Application of
Carol M. Troy et al.
Serial No.: 10/353,902
Filed: January 28, 2003
Attorney Docket No.: 5199-3

: PETITION TO MAKE SPECIAL

This is in response to the petition filed May 18, 2005, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, X. Therefor the petition is **GRANTED**.

The application will be forwarded to the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission to the Office general facsimile number, 571-273-8300.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

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YOUNG & THOMPSON
209 Madison Street
Suite 500
Alexandria, VA 22314

Mail Date: 08/03/2010

Applicant	: Alain Malnou	: DECISION ON REQUEST FOR
Patent Number	: 7645444	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/353,944	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/30/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1386** 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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FINNEGAN HENDERSON FARABOW
GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

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OFFICE OF PETITIONS

In re Application of	:	
Jun Takayasu et al	:	
Application No. 10/353,962	:	DECISION GRANTING PETITION
Filed: January 30, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 04329.2994	:	

This is a decision on the petition, filed September 28, 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 September 2, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 1765 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: ——

DATE : 1/18/05

TO SPE OF : ART UNIT 1755

SUBJECT : Request for Certificate of Correction on Patent No.: 6660081 B2

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-915
Palm location **7580** - Tel. No. 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Virginia Tolbert
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:

J.A. SORENGO
SUPERVISORY PATENT EXAMINER

1755
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

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ROBERT W. SCHLIPPER
GPO BOX 11464
HONG KONG, HK HONG KONG

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MAY 23 2005

OFFICE OF PETITIONS

In re Application of :
Robert W. Schlipper :
Application No. 10/353,993 : ON PETITION
Filed: January 30, 2003 :
Attorney Docket No. :

This is a decision on the petition under 37 CFR 1.137(b), filed August 11, 2004, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed February 11, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on May 12, 2004.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

The application matter is being referred to Technology Center 3700, Art Unit 3727 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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ROSENBERG, KLEIN & LEE
3458 ELLICOTT CENTER DRIVE-SUITE 101
ELLICOTT CITY, MD 21043

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OCT 1 9 2005

OFFICE OF PETITIONS

In re Application of :
Ming-Chang Deng, et al. :
Application No. 10/353,998 :
Filed: January 30, 2003 :
Attorney Docket No. MR2723-250 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed August 16, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed October 18, 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 19, 2005.

Receipt is acknowledged of the replacement Drawings filed with the instant petition.

The petition satisfies the requirement of 37 CFR 1.137 (b) in that petitioner has supplied (1) the reply in the form of an Amendment; (2) the petition fee of $1500; and (3) the required statement of unintentional delay have been received. Accordingly, the petition filed August 16, 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 1700, Art Unit 1722 for further processing.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions

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ALEXANDRIA, VA 22313-1450
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Paper No. 10

FREEDMAN & ASSOCIATES
117 CENTREPOINTE DRIVE, SUITE 350
NEPEAN, ONTARIO K2G 5X3 CANADA

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OFFICE OF PETITIONS

In re Application of
Neil Hutton et al
Application No. 10/354,003
Filed: January 30, 2003
Attorney Docket No. 12M-24 US DIV 2

: DECISION GRANTING PETITION
: UNDER 37 CFR 313(c)(2)

This is a decision on the petition, filed December 5, 2003, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on October 24, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8680.

Upon receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center AU 3671 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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Paper No. 3

ROSENBERG KLEIN & LEE
3458 ELLICOTT CENTER DRIVE
SUITE 101
ELLICOTT CITY, MD 21043

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JUL 23 2003

OFFICE OF PETITIONS

In re Application of :
Yukio Noguchi et al :
Application No. 10/354,057 : NOTICE
Filed: January 30, 2003 :
Attorney Docket No. ME2549-51 :

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 3764.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Patent No. : 7,074,999 B2
Serial No. : 10/354,062
Inventor(s) : Sitrick et al.
Issued : July 11, 2006
Title : **ELECTRONIC IMAGE VISUALIZATION SYSTEM AND MANAGEMENT AND COMMUNICATION METHODOLOGIES**
Docket No. : STD 1834

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.

In your request you did not specify the contents of your request, the certificate of correction branch does not view the reel and/or frames mentioned. In case it is the assignee data, box number 3 of form 85-B (Issued Fee Transmittal) should be filled in, if not, then follow the procedures in the following paragraphs.

A petition under 37 CFR 1.183 is required to correct the assignee data, and not by a request for certificate of correction only.

Assignees' and/ or Co-assignees' names and addresses (assignment data) printed in a patent are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Fee(s) Transmittal Form PTOL-85B. After payment of the issue fee, correction of assignment data submitted on the PTOL-85B can only be done by Certificate of Correction under 37 CFR 1.323, with a request under 37 CFR 3.81(b).

A request for a patent to be corrected to state the name of the assignee must:

A. state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent;
B. include a request for a certificate of correction under 37 CFR 1.323 along with the fee set forth in 37 CFR 1.20(a); and
C. include the processing fee set forth in 37 CFR 1.17(i).

If the request is granted, Certificates of Correction Branch will be notified that a Certificate of Correction may be issued.
See Manual of Patent Examining Procedure, Section 1481.01 (Rev. 3) (Oct. 2005).

Applicant has not included items A and or C above, accordingly, the request for Certificate of Correction to add or change the assignee data is dismissed.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	571-273-8300 ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Ernest C. White, *LIE*
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703)
308-9390 x 122 or (703) 305-8228

SITRICK & SITRICK
8340 N LINCOLN AVENUE SUITE 201
SKOKIE IL 60077

ecw

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PERKINS COIE LLP
PATENT-SEA
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SEATTLE, WA 98111-1247

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OFFICE OF PETITIONS

In re Patent No. 7,7074,999 :
Issue Date: July 11, 2006 :
Application No. 10/354,062 : ON PETITION
Filed: January 29, 2003 :
Attorney Docket No. 32052-9168US6 :

This is a decision on the petition, filed Marcy 5, 2007, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee data on the front of Patent.

The request is **DISMISSED**.

Petitioner states that the correct assignee's name is David H. Sitrick and that assignee's name was not included on the Part B - Fee(s) Transmittal form at the time of payment of the issue fee. Accordingly, petitioner requests that the assignee's name be added to the front page of the 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.

The request under 37 CFR 3.81(b) was not accompanied by a formal request to include the assignee change. *See also* MPEP 1481.01. As petitioner has failed to comply with the provisions of 37 CFR 3.81(b), the request cannot be granted at this time.

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[1] *See* MPEP 1309, subsection II and Official Gazette of June 22, 2004

A review of Office database assignment records reflects that an assignment to David H. Sitrick has been recorded. Therefore, upon submission of the required certificate of correction and fee, it would be appropriate for the Office to issue a certificate of correction to correct the front page of the Letters Patent to reflect that David H. Sitrick was the assignee of record at the time of issuance of the application into a patent. *Note also* 35 U.S.C. § 152.

In view of the above, **the Certificates of Correction Branch is instructed to issue a certificate of correction upon submission by petitioner of a request for a certificate of correction which sets forth David H. Sitrick, as the assignee**. *No certificate of correction will be issued which sets forth an assignee other than the assignee set forth in this request. A copy of this decision* ***must*** *accompany the renewed request for a Certificate of Correction.*

No further renewed request under 37 CFR 3.81(b) is necessary for consideration by the Office of Petitions for issuance of a certificate of correction in the name of the assignee set forth in this request, since this decision operates as an instruction to the Certificates of Correction Branch to issue the requested certificate of correction.

Inquiries concerning this decision should be directed to April M. Wise at (571) 272-1642. Any questions concerning issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

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1940 DUKE STREET
ALEXANDRIA, VA 22314

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OFFICE OF PETITIONS

In re Application of :
Jean-Michel Grimal, et al. :
Application No.: 10/354,081 : ON PETITION
Filed: January 30, 2003 :
Attorney Docket No.: 247477US55 CONT :

This is a decision on the petition, filed May 27, 2008, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on May 12, 2008, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 1794 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement (IDS).

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B - Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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HUNTON & WILLIAMS LLP
INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET, N.W.
SUITE 1200
WASHINGTON, DC 20006-1109

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OFFICE OF PETITIONS

In re Application of :
Straten et al. :
Application No. 10/354090 :
Filing or 371(c) Date: 01/30/2003 :
Attorney Docket Number: :
60820.000003 : ON PETITION

This is a decision on the "Petition Under 37 C.F.R. § 1.182, filed February 16, 2007. The petition is properly treated as a Petition To Withdraw Holding of Abandonment Based on Failure To Receive Office Action under 37 CFR 1.181(a) See, MPEP 711.03(c). The delay in treating this petition is regretted.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Office communication, mailed May 31, 2006. The Office communication set a one (1) month period for reply. No response having been received, the application became abandoned on July 1, 2006. A Notice of Abandonment was mailed January 16, 2007.

With the instant petition, Applicant has demonstrated non-receipt of the Office communication by a preponderance of the evidence.

In view of the foregoing, the petition is granted. The holding of abandonment is hereby withdrawn.

Petitioner is advised that there is no fee associateds with this petition. The petition fee has been refunded. Petitioner is also advised that the current fee for a petition under 37 CFR 1.182 increased to $400.00 effective December 8, 2004.

The application will be referred to the Technology Center Art unit 1644 for re-mailing of the Office communication.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

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MAR 23 2005

OFFICE OF THE DIRECTOR
TC 3600

Stephen T. Boughner
Staas & Halsey LLP
1201 New York Avenue, NW, Suite 700
Washington, DC 20005

Paper No. 03102005

In re Application of
Yo-Se Oem
Application Number 10/354,091
Filed: January 30, 2003
For: BOARD-CONVEYING ROBOT

PETITION UNDER 37 CFR 1.181
REQUESTING SUPERVISORY
REVIEW OF THE FINAL REJECTION

This is in response to applicant's Petition 37 CFR 1.181 filed on January 13, 2005 to review the finality of the action mailed October 18, 2004.

The petition is **DISMISSED.**

The petition alleges the office action is improper because the examiner failed to explain the rejection in enough detail to meet the "burden of making out a prima facie case" and did not give the required detailed "evidenced motivation" required by Graham v. Deere analysis. The petition requests a new office action.

While for anticipation under 35 U.S.C. 102, the reference must teach every aspect of the claimed invention either explicitly or impliedly, the examiner need not explain how "each and every element" of the claim is found in the reference. If it would be clear to one of skill in the art how the reference reads on the claims then the examiner need not go into detail. Applicant may disagree with the reading of the prior art and/or the substance of the reasoning and explanations provided by the examiner, however such disagreements do not render the office action improper.

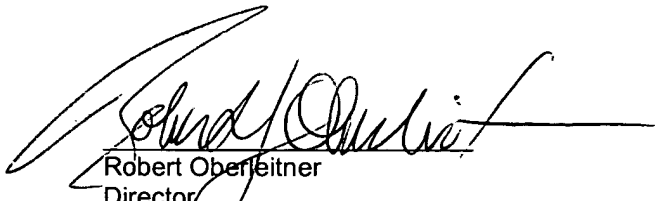
For example, with respect to claim 1, the Tsuboto reference meets the recited claim limitations. It includes a vertical axis arm 2 including parts 21, 22, and 23, a horizontal axis arm 3 including parts 33 & 34, a hand 30a & 30b, and head 32 connected between the part 22 of the vertical axis arm 2 and part 34 the horizontal axis arm 3.

With regards to the Graham v. Deere analysis, while the examiner must perform the three-prong test, there is no requirement that there must be a lengthy and detailed discussion in the office action of entire process. The MPEP only states "examiners should apply the test for patentability under 35 U.S.C. 103 set forth in Graham". From a review of the Office action it is maintained that the above noted analysis has been performed.

The application has been sent to the examiner for consideration of the amendment filed on January 13, 2005.

SUMMARY: The petition is **DISMISSED.**

Inquiries related to this decision may be directed to Supervisory Patent Examiner, Eileen D. Lillis at (703) 308-3248.



Robert Oberleitner
Director
Patent Technology Center 3600
703-308-1134

edl/

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Paper No. 5

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OFFICE OF PETITIONS

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER
1300 I STREET, N.W.
WASHINGTON DC 20005-3315

In re Application of
Carl M. Elam
Application No. 10/354,093
Filed: January 30, 2003
Attorney Docket No. 08060.0003-00000

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3) AND
: UNDER 37 CFR 1.78(a)(6)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed July 7, 2003, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of the prior-filed nonprovisional application, and on the petition under 37 CFR 1.78(a)(6) for the claim under 35 U.S.C. §119(e) for the benefit of priority to the prior-filed provisional application set forth in the amendment filed concurrently with the instant petition.

The petition is **Granted**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

> **(1)** the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;[1]
> **(2)** the surcharge set forth in § 1.17(t); and
>
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

---

[1] Any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed copending applications or international applications designating the United States of America must contain or be amended to contain a reference (amendment to the first line of the specification following the title or in an application data sheet (ADS)) to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) or international application number and international filing date filing date and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate (*see* § 1.14).

The instant application was filed on January 30, 2003, and was pending at the time of filing of the instant petition. A reference to the prior-filed 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)(3).

As to the benefit claim under 37 CFR 1.78(a)(6):

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the surcharge set forth in 37 CFR 1.17(t);

(2) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional; and

(3) the reference to the prior filed provisional application supplied in an application data sheet (ADS)37 CFR 1.76) or as an amendment in the first sentence of the specification following the title. See 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5)(i). The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant application seeks acceptance of a claim for priority under 35 U.S.C. §119(e) for the benefit of prior-filed provisional Application No. 60/202,055, filed May 5, 2000. A reference to the prior- filed application has been included in an amendment to the first sentence of the specification following the title.

The instant nonprovisional application was filed after November 29, 2000, and the claim for priority herein is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii) and 1.78(a)(5)(ii). Also, the reference to the prior-filed applications was submitted during the pendency of the nonprovisional application for which the benefit is sought. 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 37 CFR 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 37 CFR 1.78(a)(6) should <u>not</u> 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. 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 the prior-filed applications accompanies this decision on petition.

Any questions concerning this matter may be directed to Karen Creasy at (703) 305-8859 .

This application is being forwarded to Technology Center Art Unit 2632 for processing the amendment submitted July 7, 2003, and for processing and consideration by the examiner of the claim under 35 U.S.C. §120 and 37 CFR 1.78(a)(2) for the benefit of prior-filed nonprovisional Application No. 09/697,187, filed October 27, 2000, and for consideration of the claim under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5) for the benefit of prior-filed provisional Application No. 60/202,055, filed May 5, 2000.

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT : Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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Finnegan, Henderson, Farabow
Garrett & Dunner, L.L.P.
1300 I Street, N.W.
Washington, DC 20005-3315

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OCT 0 4 2004

OFFICE OF PETITIONS

In re Application of :
Kyotaka Miyano, et al. :
Application No. 10/354,094 : ON PETITION
Filed: January 30, 2003 :
Attorney Docket No. 2887.0237 :

This is a decision on the petition, filed October 1, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 16, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (703) 305-9220.

The application is being referred to Technology Center AU 2826 for further processing of the request for continued examination under 37 CFR 1.114 filed October 1, 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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OCT 3 2006

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CONNOLLY BOVE LODGE & HUTZ
1990 M STREET, N.W.
WASHINGTON, D.C. 20036-3425

In re Application of	:
Dr. Mary A. Reppy, et al.	:
Serial No.: 10/354,099	: PETITION DECISION
Filed: January 30, 2003	:
Attorney Docket No.: 22001-00005-US2	:

This is in response to the petition under 37 CFR § 1.181, filed August 10, 2006, requesting that the evidence documents of Dai et al., Pindzola et al. and http://www.Chemistry.wustl.edu/-gelb/cpg.html sent after the final Office action, be made of record.

BACKGROUND

A review of the file history shows that applicants filed a preliminary amendment on January 30, 2003, canceling claims 1-19 and 38-46 and adding claims 47 and 48.

The examiner mailed a Restriction requirement on June 29, 2005, requiring a species election from each of polydiacetylene backbone, substrate and terminal group of the polydiacetylene.

Applicants responded on July 28, 2005, electing i) Poly (10, 12-pentacosadiynoic acid) as the single species of a polydiacetylene backbone, ii) Anti-chlamydia trachomatis antibodies conjugated to 1, 2-distearoyl-sn-glycero-3-phosphoryethanolaminocarproylmaleimide as the single species of substrate, and iii)Carboxylic acid as the single species of a terminal group of the polydiacetylene. Applicants also added new claims 49 and 50.

The examiner mailed a non-final Office action to applicants on September 19, 2005, examining claims 20-37 and 47-50 for the elected species, which was found to be free from the prior art, and so extended the search to the next species. As a result claims 20-23, 25-30, 32, 37, 47 and 50 were rejected under 35 U.S.C. 102(b) as being anticipated by Saul et al USP 5,415,999. Claims 20, 21, 24, 26, 28, 34 and 50 were rejected under 35 U.S.C. 102(b) over Charych et al. Claims 20, 22, 23, 25-29, 31, 33, 37 and 48 were rejected under 35 U.S. C. 102 (b) over Ribi (USP 5,622,872) and claims 20-23, 25-30, 32, 35-37, 47 and 50 were rejected under 35 U.S.C. 103 (a) over Saul et al and Olmsted III, et al. Claim 49 was deemed free of the prior art.

Applicants responded on January 06, 2006, with an IDS, arguments and an amendment to the claims canceling claims 22-24, amending claim 20 and 50 and adding new claims 51-67 with claims 51 and 67 being independent.

The examiner mailed a final Office action, on April 24, 2006 wherein new claim 67 was withdrawn from consideration as being drawn to a non-elected invention. The rejection of claims 20-21, 25-30, 32, 37, 47 and 50 under 35 U.S.C. 102(b) over Saul et al USP 5,415,999 was repeated, as was the rejection of claims 20-25-29, 31,33, 37 and 48 under 35 U.S.C. 102(b) over Ribi et al USP 5;622,872 and the rejection of claims 20, 21, 25-30, 32, 35-37, 47 and 50 under 35 USC 103(a) over Saul et al and Olmsted III,et al.

The examiner set forth a new ground of rejection on new claims 51-60 and 63 under 35 U. S.C. 102(b) over Saul et al., a new grounds of rejection on claims 20,21, 25-30, 34, 35 and 65 under 35 USC 103(a) over Saul et al and Olmsted III et al, a new ground of rejection on claims 51-64 under 35 U.S. C. 103(a) over Saul et al and Olmsted et al., and, finally, a new ground of rejection of claims 51-60, 63 and 66 under 35 USC 103(a) over Saul et al.

Applicants responded to the final Office action on June 28, 2006, with the argument reproduced below (See page 2 of the response):

> process of the claimed invention. Enhanced results from filtration, achievable by the present invention, are further demonstrated in Dai et al.; Use of Porous Membranes Modified with Polyelectrolye Multilayers as Substrates for Protein Arrays with Low Nonspecific Adsorptions; American Chemical Society; Analytical Chemistry, Vol 78, No. 1, January 1, 2006(copy attached). Also, see Pindzola et al. Antibody-fuctionalized polydiacetylene coatings on nanoporous membranes for microorganism detection; Royal Society of Chemistry, 2006, pages 906-908, Jan. 19, 2006 (copy attached). This is a peer reviewed scientific article that discusses the significance of the present invention.

Applicants failed, however, to provide the copies of the documents.

The examiner mailed an advisory action on July 28, 2006, in response to applicants' arguments and did not address two of the non-patent references, but addressed the web site.

In response thereto, applicants filed this petition under 37 CFR § 1.181, on August 10, 2006, requesting that the evidence Dai et al., Pindzola et al. and http://www.Chemistry.wustl.edu/-gelb/cpg.html sent after the final Office action, be made of record as they were in response to the rejections made in the final Office action and that applicants could not have presented them before.

DISCUSSION

Applicants responded to the examiners final Office action with arguments and citation of new evidence. However, applicants failed to provide copies even though the arguments stated that the copies were attached. The fax transmission cover sheet sent on June 28, 2006 clearly indicated that a total of 9 pages were faxed. This includes the 6 pages of arguments and 3 pages of the fax transmission form, certificate of the fax transmission and a cover letter for the response after final. Our records (ie. E-dan) do not indicate that these references were scanned with a response. Also, the references were not US or WO documents, which the examiner could have obtained easily. As such, the examiner did not consider them and hence did not make them of record. The examiner did, however, consider the web site reference and cited it on a PTO-892, albeit incorrectly.

Applicants have now provided these references with this petition, but they will not be considered at this stage and be made a part of the record.

In view of the above, the web address of the reference will be corrected and made of record. However, the examiner will not enter and consider the non-patent literature provided with the petition as they were not submitted until after the final Office action.

DECISION

This petition filed under 37 CFR § 1.181, filed August 10, 2006, requesting that the evidence Dai et al., Pindzola et al. and http://www.Chemistry.wustl.edu/-gelb/cpg.html sent after the final Office action, be made of record is **GRANTED-IN-PART.**

The petition to enter the non-patent documents Dai et al and Pindzola et al is **DENIED.**
The request to correct the PTO 892 and insert the correct http://www.Chemistry.wustl.edu/-gelb/cpg.html address is **GRANTED.**

Should there be any questions about this decision please contact Ms. Marianne 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 571-273-8300.

George Elliott
Director, Technology Center 1600

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BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

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OFFICE OF PETITIONS

In re Application of :
Arito Asai, et al. :
Application No. 10/354,123 : ON PETITION
Filed: January 30, 2003 :
Attorney Docket No.: 0905-0278P :

This is a decision on the petition, filed November 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 October 6, 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 2155 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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OFFICE OF PETITIONS

Dorsey & Whitney, LLP
Suite 3400
Four Embarcadero Center
San Francisco, CA 94111-4187

In re Patent No. 6,977,365 :
Issue Date: December 20, 2005 :
Application No. 10/354,156 : NOTICE
Filed: January 28, 2003 :
Attorney Docket No. A-71456/ESW :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed August 17, 2009. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **NOT ACCPETED.**

The fee deficiency cannot be accepted because the itemization is not correct. An extension of time fee and excess claim fee were not included in the fees listed on the petition.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

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 related to this decision should be directed to the Kimberly Inabinet at (571) 272-4618.

Carl Friedman
Petitions Examiner
Office of Petitions

cc: Edward S. Wright
Law Offices of Edward S. Wright
1100 Alma Street, Suite 207
Menlo Park, CA 94025

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EDWARD S. WRIGHT
1100 ALMA STREET, SUITE 207
MENLO PARK CA 94025

MAILED

FEB 17 2010

OFFICE OF PETITIONS

In re Patent No. 6,977,365 :
Issue Date: December 20, 2005 :
Application No. 10/354,156 : CORRECTED NOTICE
Filed: January 28, 2003 :
Attorney Docket No. A-7145656/ESW :

This is a corrected notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed August 17, 2009. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby accepted. The petition is **GRANTED**.

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.

This file is being forwarded to Files Repository.

Telephone inquiries related to this decision should be directed to the Kimberly Inabinet at (571) 272-4618.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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OCT 11 2006

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

SUGHRUE MION, PLLC
2100 Pennsylvania Avenue, NW
Washington DC 20037-3213

In re Application of
Jun ENOMOTO
Appl. No.: 10/354,165
Filed: January 30,2003
For: **IMAGE RETRIEVAL METHOD**

DECISION ON PETITION UNDER 37 CFR 1.59

This is a decision on the petition filed September 11, 2006, to expunge information erroneously submitted in the above identified application pursuant to 37 CFR 1.59(b).

Petitioner asserts that the Information Disclosure Statements filed April 28, 2003 and August 14, 2003, were erroneously submitted by another law firm, and should be expunged from the record inasmuch as they are not proper for the instant application. Petitioner states 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(h) has been paid.

A review of the file finds that the Information Disclosure Statements (IDS) filed April 28, 2003 and August 14, 2003 were improperly matched to the instant application due to the incorrect Serial Number being provided by another law firm. Based upon other identifying information, it can be determined that these IDS's should have been matched to another similar, but different, Application Serial Number.

Accordingly, the petition is **GRANTED**.

The expunged material has been removed (e.g. closed) from the electronic file wrapper for the instant application and transferred to the correct application.

Krista Zele
Special Programs Examiner
Technology Center 2600
Communications

JCH

P62167US3

UNITED STATES PATENT AND TRADEMARK OFFICE

JACOBSON HOLMAN PLLC
COMPUTER UPDATED

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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2/22/05

TC 2-22-05

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JACOBSON HOLMAN PLLC
400 SEVENTH STREET N.W.
SUITE 600
WASHINGTON, DC 20004

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FEB 17 2005

OFFICE OF PETITIONS

In re Application of :
Nakagome et al. :
Application No. 10/354,185 : ON PETITION
Deposited: January 30, 2003 :
Attorney Docket No.: P62167US3 :

This is a decision on the petition filed January 12, 2004 , requesting that the above-identified application be accorded a filing date of January 30, 2003.

The application was deposited on January 30, 2003, claiming status as a continuation of prior application No. 09/919,933. However, on January 2, 2004, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application" stating that a filing date had **not** been granted and requiring drawings as described in the specification. The "Notice" further stated that the filing date would be the date of receipt of the omitted drawings.[1]

In response, 4 sheets of drawings, including figures No. 1-4, and the present petition were filed on January 12, 2004. Petitioner insist that the drawings were filed on January 30, 2003.

Upon further review of the petition and the application file it is evident the claims presented with the original disclosure included method claims. It has been USPTO practice to treat an application that contains at least one process or method claim as an

[1]A Notice of Missing Parts mailed on April 17, 2003 was withdrawn on January 2, 2004. A corrected Notice of Incomplete Nonprovisional Application was mailed on January 4, 2004.

application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence). See MPEP 601.01(f).

Since the application should have been accorded a filing date and a Notice of Omitted Parts should have been issued rather than a Notice of Incomplete Application, the application will be accorded the requested filing date of January 30, 2003 without any drawings.

The petition is granted to the extent indicated above. The petition fee will be refunded.

If petitioner desires, an amendment seeking entry of the drawings may be submitted. In view of the incorporation by reference of the prior application 09/919,933, figures 1-4 would not be considered new matter, if they were part of the disclosure of the prior application. The examiner will make a determination whether the drawings should be entered.

The application is being forwarded to the Office of Initial Patent Examination to accord the application a filing date of **January 30, 2003**, without any drawings.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petition Attorney
Office of Petitions

LOC-47 DAC

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Seiji NAKAGOME et al

Serial No.: 10/354185

Filing Date: January 30, 2003 Group Art Unit: 1621

For: PHENYLENEDIAMINE DERIVATIVE, PRODUCTION METHOD THEREOF AND ANTIOXIDANT FOR RUBBER USING IT AS EFFECTIVE CONSTITUENT

PRELIMINARY AMENDMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Attached hereto is a Decision by the Office of Petitions wherein it has been decided that the filing date of this application is January 30, 2003, however, that filing date does not include the four sheets of drawings containing Figures 1-4. As seen on page 2 of the Decision counsel is invited to seek entry of the drawings and since these drawings were contained in all of the prior applications and specifically Serial No. 09/919933. That application was incorporated by reference as will be seen in paragraph 16 of the instant continuation application filed January 30, 2003. It is therefore requested that Figures 1-4 enclosed be made a part of this application. They are not to be considered as new matter since they were always contained in the previous applications and indeed according to counsel's records in this application.

A separate letter to the Chief Draftsman is enclosed along with Figures 1-4. It is noted that these figures have been submitted to the office in this particular application many times before.

Early and favorable action on the merits of this application is courteously awaited.

Respectfully submitted,

JACOBSON HOLMAN PLLC

By: _____
John C. Holman
Reg. No. 22,769

400 Seventh Street, N.W.
Washington, DC 20004
(202) 638-6666
Atty. Dkt. No.: P62167US3
Date: February 23, 2005

Enclosures: Letter to the Chief Draftsman + 4 sheets of drawing
Copy Decision from Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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JACOBSON HOLMAN PLLC
400 SEVENTH STREET N.W.
SUITE 600
WASHINGTON, DC 20004

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FEB 17 2005

OFFICE OF PETITIONS

In re Application of
Nakagome et al.
Application No. 10/354,185
Deposited: January 30, 2003
Attorney Docket No.: P62167US3

ON PETITION

This is a decision on the petition filed January 12, 2004 , requesting that the above-identified application be accorded a filing date of January 30, 2003.

The application was deposited on January 30, 2003, claiming status as a continuation of prior application No. 09/919,933. However, on January 2, 2004, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application" stating that a filing date had **not** been granted and requiring drawings as described in the specification. The "Notice" further stated that the filing date would be the date of receipt of the omitted drawings.[1]

In response, 4 sheets of drawings, including figures No. 1-4, and the present petition were filed on January 12, 2004. Petitioner insist that the drawings were filed on January 30, 2003.

Upon further review of the petition and the application file it is evident the claims presented with the original disclosure included method claims. It has been USPTO practice to treat an application that contains at least one process or method claim as an

[1]A Notice of Missing Parts mailed on April 17, 2003 was withdrawn on January 2, 2004. A corrected Notice of Incomplete Nonprovisional Application was mailed on January 4, 2004.

application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence). See MPEP 601.01(f).

Since the application should have been accorded a filing date and a Notice of Omitted Parts should have been issued rather than a Notice of Incomplete Application, the application will be accorded the requested filing date of January 30, 2003 without any drawings.

The petition is granted to the extent indicated above. The petition fee will be refunded.

If petitioner desires, an amendment seeking entry of the drawings may be submitted. In view of the incorporation by reference of the prior application 09/919,933, figures 1-4 would not be considered new matter, if they were part of the disclosure of the prior application. The examiner will make a determination whether the drawings should be entered.

The application is being forwarded to the Office of Initial Patent Examination to accord the application a filing date of **January 30, 2003**, without any drawings.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petition 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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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/354,190	01/30/2003	Hiroshi Okui	I22971	8453

7590 05/20/2005

Bruce H Bernstein
Greenblum & Bernstein PLC
1950 Roland Clarke Place
Reston, VA 20191

EXAMINER	
NGUYEN, MATTHEW VAN	
ART UNIT	PAPER NUMBER
2838	

DATE MAILED: 05/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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May 2005

Bruce H. Bernstein
Greenblum & Bernstein PLC
1950 Roland Clarke Place
Reston, VA 20191

MAY 17 2005

In re Reissue Application of:
Hiroshi Okui et al.
Serial No.: 10/354,190
Filed: January 30, 2003
Attorney Docket No.: I22971

DECISION
ACCEPTING PAPERS

This is a decision accepting the response filed on February 9, 2005, via facsimile transmission, as being timely filed.

A non-final Office action was mailed to the applicant on May 25, 2004. The action set a 3 month shortened statutory period in which to respond. The response filed on February 9, 2005 includes a copy of a receipt bearing a PTO stamp indicating a August 25, 2004 date of receipt. If the original response was received at the PTO on August 25, 2004, it would have been a timely response to the Office action.

The original response is not in the file record and cannot be located. However, M.P.E.P. § 503 states that "a postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO." Accordingly, it is concluded that the original response was timely filed but was lost or misplaced after receipt thereof.

The response of February 9, 2005 is hereby accepted as being timely filed and accepted for entry in the file record. The file will be returned to the examiner for consideration of the response.

Any inquiries regarding this decision should be directed to Edward Westin at (571) 272-1638.

Edward Westin

Edward Westin, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

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CHARLIE C. SANDERS
11235 STROUD DR.
HOUSTON TX 77072

COPY MAILED

JAN 14 2005

OFFICE OF PETITIONS

In re Application of :
Charlie C. Sanders :
Application No. 10/354,205 :
Filed: January 30, 2003 :
Title: DIESEL FOUR CYCLE, 1 POPPET VALVE, MODIFIED HEAD, PISTON AND VALVES :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed December 29, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to file a proper reply within the meaning of 37 CFR 1.113 to the final Office Action of January 20, 2004, within the time period for reply. No extensions of time were obtained. Accordingly, the application became abandoned on April 21, 2004. A Notice of Abandonment was mailed on December 8, 2004.

The Notice of Appeal filed December 29, 2004, has been entered and made of record. Accordingly, the two (2) month period for filing the appeal brief, in triplicate, accompanied by the requisite fee, runs from the date of this decision.

This matter is being referred to Technology Center Art Unit 3747 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Petitions Attorney
Office of Petitions

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WINSTON & STRAWN LLP
PATENT DEPARTMENT
1700 K STREET, N.W.
WASHINGTON, DC 20006

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DEC 31 2009

OFFICE OF PETITIONS

In re Application of :

Marvin A. SACKNER, et *al.* :
Application No. 10/354,212 :
Filed: January 29, 2003 :
Attorney Docket No. **85167-67490** :

DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 11, 2009.

The request is **NOT APPROVED**.

The request to withdraw as attorney/agent of record and change of correspondence address is hereby not accepted. Petitioner has not complied with current USPTO requirements, set forth in 37 CFR 10.40 concerning Request for Withdrawal as Attorney and Change of Correspondence Address.

Petitioner has not properly submitted forwarding correspondence address information for the application.

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.***

The Office will also no longer change the correspondence address to that of a new practitioner unless the Request is accompanied by a power of attorney to a new practitioner (e.g., Form PTO/SB/82). All future communications from the Office will be directed to the above-listed address until otherwise properly notified by the applicant or a proper change of correspondence address has been submitted.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAILED

MAY 27 2009

OFFICE OF PETITIONS

BAKER BOTTS L.L.P.
30 ROCKEFELLER PLAZA
44TH FLOOR
NEW YORK NY 10112-4498

In re Patent No. 7,521,385

Issue Date: April 21, 2009

Application No. 10/354,219

Filed: January 29, 2003

Attorney Docket No. **AP34962 070015.0222**

ON PETITION

This is a decision on the petition filed April 22, 2009, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee data on the front page of the above-identified patent and other typographical errors by way of Certificate of Correction.

The request is **granted**.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3222. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

The file is being forwarded to the Certificate of Correction Branch for issuance of the requested Certificate of Correction.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

[1] See *Official Gazette* of June 22, 2004.

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Paper No. 6.

Luke K. Pedersen
Baker Botts L. L. P.
Suite 600
2001 Ross Avenue
Dallas TX 75201-2980

COPY MAILED

AUG 13 2003

OFFICE OF PETITIONS

In re Application of
Naik, Levesque, Galou, Wong ~~& Zaeh~~
Application No.: ~~10/159,972~~ 10/354,234
Filed: ~~May 30, 2002~~ January 29, 2003
Attorney Docket No.: ~~064731.0200~~ 067856.0353
For: ELEMENT MANAGEMENT SYSTEM WITH ADAPTIVE INTERFACE BASED ON AUTODISCOVERY FROM ELEMENT IDENTIFIER

DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed January 29, 2003. The petition was only recently matched with the file because no application serial number was listed on the petition and the filing date listed was incorrect. The undersigned has modified the identifiers listed on the petition accordingly.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

The above-identified application was filed on May 30, 2002 without a fully executed oath or declaration. Accordingly, on July 3, 2002, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration and filing fees, and a surcharge for their late filing.

In response, on January 29, 2003, a petition for a five month extension of time and required fee, the surcharge, application filing fees, the petition fee, and the instant petition were filed.

A grantable petition under 37 CFR 1.47(a) requires

(1) a petition including proof of the pertinent facts establishing that the joint inventor(s) refuses to join, or cannot be found or reached after diligent effort,
(2) a proper oath or Declaration executed by the available joint inventor(s),
(3) the fee of $130 as specified in 37 CFR § 1.17(h), and
(4) the last known address of the omitted inventor(s).

This petition lacks items (1) and (2) above.

As to item (1), Applicant has failed to establish that the inventor has refused to sign the declaration or cannot be reached. The proof of the pertinent events should be made by a statement of someone with first hand knowledge of the events.

"Exhibit A - Declaration of Luke K. Pedersen In Support of Petition" is missing from the application file. Thus, it cannot be ascertained whether petitioners have shown Ms. Wong refused to sign the declaration or cannot be reached. Petitioners are requested to submit another copy of the Pedersen declaration.

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 has not been presented. The combined Supplemental Declaration and Power of Attorney executed by all available joint inventors referenced in the petition is missing from the application file. Petitioners are requested to submit another copy of the supplemental declaration.

It appears that the $130 petition fee submitted on January 29, 2003 was erroneously refunded. The $130 Rule 47 petition fee is required. Pursuant to petitioners' authorization, deposit account no. 02-0384 will be charged the $130 petition fee.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop PETITION Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By facsimile:	(703) 308-6916 Attn: Office of Petitions
By hand:	Office of Petitions 2201 South Clark Place Crystal Plaza 4, Suite 3C23 Arlington, VA 22202

Telephone inquiries should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Paper No. 8

Luke K. Pedersen
Baker Botts L. L. P.
Suite 600
2001 Ross Avenue
Dallas TX 75201-2980

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SEP 16 2003

OFFICE OF PETITIONS

In re Application of
Naik, Levesque, Galou & Wong
Application No.: 10/354,234
Filed: January 29, 2003
Attorney Docket No.: 067856.0353
For: ELEMENT MANAGEMENT SYSTEM WITH ADAPTIVE INTERFACE BASED ON AUTODISCOVERY FROM ELEMENT IDENTIFIER

DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the reconsideration petition under 37 CFR 1.47(a), filed September 9, 2003.

The previous petition under 37 CFR 1.47(a), filed January 29, 2003, and decision on petition, mailed August 13, 2003, have been placed in the above-identified application file, entered into PALM records for the above-identified application, and identifiers on the two papers have been altered accordingly. The January 29, 2003 petition was associated with an incorrect application, no. 10/159,972, because the petition became separated from its exhibits, was erroneously matched with an extension of time submitted in application no. 10/159,972 and was ultimately placed in application no. 10/159,972. Office PALM records have been modified so that there is no mention of a January 29, 2003 petition or decision on petition in application no. 10/159,972.

The petition is granted.

Petitioners have shown that the non-signing inventor, Malais Wong, has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the declaration of Luke K. Pederson establishes that on March 1, 2002, the inventor was mailed and received the application papers, including the specification, claims and drawings, and on January 27, 2003 Ms. Wong expressly refused to sign the declaration. Petitioners have submitted a declaration in compliance with 37 CFR 1.63 and 1.64.

This application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

Regarding finances, pursuant to petitioners' authorization, deposit account no. 02-0384 will be credited one $130 petition fee.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the above-identified application will be forwarded to Technology Center AU 2143 for examination in due course.

Telephone inquiries should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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MALAIS WONG
330 N. MATHILDA AVENUE #504
SUNNYVALE CA 94085

COPY MAILED
SEP 16 2003
OFFICE OF PETITIONS

In re Application of :
Naik, Levesque, Galou & Wong :
Application No.: 10/354,234 : LETTER
Filed: January 29, 2003 :
Attorney Docket No.: 067856.0353 :
For: ELEMENT MANAGEMENT SYSTEM WITH ADAPTIVE INTERFACE BASED ON AUTODISCOVERY FROM ELEMENT IDENTIFIER

Dear Ms. Wong:

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: Luke K. Pedersen
Baker Botts L. L. P.
Suite 600
2001 Ross Avenue
Dallas TX 75201-2980

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NOV 17 2004

SALIWANCHIK LLOYD & SALIWANCHIK
A PROFESSIONAL ASSOCIATION
PO BOX 142950
GAINESVILLE FL 32614-2950

In re Application of	:	
Morris Notelovitz	:	
Serial No. 10/354,238	:	DECISION ON PETITION
Filed: January 29, 2003	:	
Title: Methods for Reducing the Risk of Breast Cancer and Improving the Health of Women	:	

This is in response to applicants' petition filed July 29, 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 (571)272-2975 or by facsimile transmission at (571) 273-0275.

John E. Kittle
Director
Technology Center 3700/2900

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P.O. BOX 1450
ALEXANDRIA, VA 23313-1450
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Mailed:

Paper No. 0070309

In re Application of Spall.
Serial No.: 10/354,243
Filed: 01/29/2003

DECISION ON PETITION UNDER *37 CFR 1.48(a)*

Title: IMS DETECTION OF CHEMICAL MARKERS IN PETROLEUM PRODUCTS

This is a decision on the PETITION TO CORRECT INVENTORSHIP IN A NON-PROVISIONAL PATENT APPLICATION filed 08/07/06 to correct inventorship under 37 CFR 1.48(a) by adding the names of Gary Eiceman, and Hartwig Schmidt to the list of inventors of the instant application.

It is noted that the applicant has met the requirements of 37 C.F.R. § 1.48(a) by (1) submitting a request to correct the inventorship that sets forth the desired inventorship change; (2) providing a statement from each person being added as an inventor that the error in inventorship occurred without deceptive intention on his or her part; (3) providing a declaration of the actual inventors as required by 37 C.F.R. § 1.63; (4) providing the processing fee set forth in 1.17(i); and, (5) providing the written consent of the assignee.

The request is **GRANTED**.

The application file is being forwarded to the appropriate section of the Patent and Trademark Office for correction of the record.

Glenn A. Caldarola
Supervisory Patent Examiner
Art Unit 1764
Technology Center 1700

Correspondence Address:

FISH & RICHARDSON P.C.
P.O BOX 1022
Minneapolis MN 55440-1022

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 1/16/2008

TO SPE OF : ART UNIT 3700 (3765)

SUBJECT : Request for Certificate of Correction on Patent No.: 6,878,033

Attn: Gloria Hale

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and forward within 7 days to: **Scanning customer Support**

Send copy also via PTO mail to:
Certificates of Correction Branch – 2900 South Tower 9A39A
Palm location **7580** - Tel. No. 308-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Ok to enter changes to Inventorship as req. in C of C?

Thank You For Your Assistance

Ernest C. White, LIE - 308-9390x122
Certificates of Correction Branch

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:

Approved.

SPE AU 3765

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 1/16/2008

TO SPE OF : ART UNIT 3700 (3765)

SUBJECT : Request for Certificate of Correction on Patent No.: 6,878,033

Attn: Gloria Hale

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and forward within 7 days to: Scanning customer Support

Send copy also via PTO mail to:
Certificates of Correction Branch – 2900 South Tower 9A39A
Palm location 7580 - Tel. No. 308-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Ok to enter changes to inventorship as req. In C of C?

Ernest C. White, LIE - 308-9390x122
Certificates of Correction Branch

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved**	All changes apply.
☐ **Approved in Part**	Specify below which changes do not apply.
☐ **Denied**	State the reasons for denial below.

Comments:

Approved.

SPE AU 3765

PTOL-308 (REV. 7/03) U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

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WASHINGTON, DC 20231
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Ostrolenk Faber Gerb & Soffen
1180 Avenue of the Americas
New York, NY 10036-8403

Art Unit 3765

2/5/09

In re Application of :
Luk :
Serial No. 10/354,244 : DECISION ON PETITION
Filed January 29, 2003 :
For: Multi-panel Molded Brassiere Cup and :
Related Methods of Manufacture

In the petition under 37 CFR 1.324 filed August 25, 2006, applicant request that Zhen Qiang Liu be added as an inventor of the above named invention. In order for the petition under 37 CFR 1.324 to be granted, the petition must be accompanied with the following:

(a) Whenever through error a person is named in an issued patent as the inventor, or through error an inventor is not named in an issued patent and such error arose without any deceptive intention on his or her part, the Director, pursuant to 35 U.S.C. 256, may, on application of all the parties and assignees, or on order of a court before which such matter is called in question, issue a certificate naming only the actual inventor or inventors. A petition to correct inventorship of a patent involved in an interference must comply with the requirements of this section and must be accompanied by a motion under § 41.121(a)(2) or § 41.121(a)(3) of this title.

(b) Any request to correct inventorship of a patent pursuant to paragraph (a) of this section must be accompanied by:

(1) Where one or more persons are being added, a statement from each person who is being added as an inventor that the inventorship error occurred without any deceptive intention on his or her part;

(2) A statement from the current named inventors who have not submitted a statement under paragraph (b)(1) of this section either agreeing to the change of inventorship or stating that they have no disagreement in regard to the requested change;

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(3) A statement from all assignees of the parties submitting a statement under paragraphs (b)(1) and (b)(2) of this section agreeing to the change of inventorship in the patent, which statement must comply with the requirements of § 3.73(b) of this chapter; and

(4) The fee set forth in § 1.20(b).

The petition is granted.

Applicant has met all requirements under 37 CFR 1.324 listed above.

PETITION GRANTED

Gary L. Welch
Supervisory Patent Examiner
Art Unit 3765
(571) 272-4996
(571) 273-4996 fax

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Commissioner for Patents
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LAW OFFICE OF
CHRISTENSEN O'CONNOR JOHNSON KINDNESS
1420 FIFTH AVENUE, SUITE 2800
SEATTLE, WA 98101

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AUG 1 6 2004

OFFICE OF PETITIONS

In re Application of :
J.W. Haslett et al :
Application No. 10/354,250 : NOTICE
Filed: January 28, 2003 :
Attorney Docket No. LAMA120499

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 2832 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Paper 45

BEYER WEAVER & THOMAS LLP
P.O. BOX 778
BERKELEY CA 94704-0778

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JUN 05 2003

OFFICE OF PETITIONS

In re Application of
Peter Beerel et al.
Application No. 10/354,272
Filed: January 28, 2003
Attorney Docket No. FULCP004/015

: DECISION GRANTING PETITION

This is a decision on the petition filed May 6, 2003 under 37 CFR 1.53, in response to the "Notice of Omitted Items" mailed April 11, 2003.

The instant application was filed January 28, 2003 and a filing date was accorded. However, according to the Notice of Omitted Items, the application papers submitted did not include page 31 of the specification.

Petitioner asserts that page 31 was among the papers filed on January 28, 2003, and submits a "legible" postcard receipt in evidence thereof. The postcard receipt, identifies the application and acknowledges, inter alia, the number of specification pages to be 44 and bears a United States Patent and Trademark Office date-stamp of January 28, 2003. Further, the postcard receipt lacks any notation of non-receipt of any item listed.

In view of the foregoing, the petition is **Granted.**

Given the basis for granting the petition, no petition fee is due. A refund will be issued in the amount of $130.00.

This application is being forwarded to the Office of Initial Patent Examination (OIPE) for further processing, using the application papers received in the Office on January 28, 2003 and page 31 of the specification submitted May 6, 2003.

Telephone inquiries regarding this decision should be directed to the undersigned Petitions Attorney at (703) 305-4497.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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Paper No. 5

DAVIDSON DAVIDSON & KAPPEL
485 SEVENTH AVENUE, 14TH FLOOR
NEW YORK, NY 10018

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DEC 11 2003

OFFICE OF PETITIONS

In re Application of :
Pierre-Alain Cotte :
Application No. 10/354,303 : NOTICE
Filed: January 29, 2003 :
Attorney Docket No. 5007.1011 :

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 2143.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

SPE: T. Callahan

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 9/21/06

TO SPE OF : ART UNIT 2816

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/354,307 Patent No.: 6288122

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Lamonte M. Newsome
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☑ **Approved**	All changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

SRE 2816
SRE Art Unit

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Charles J. Prescott, P.A.
Suite 115
2033 Wood Street
Sarasota, FL 34237

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JUN 15 2005

OFFICE OF PETITIONS

In re Application of

Alan R. Taylor

Application No. 10/354,309

Filed: January 30, 2003

Attorney Docket No. P-1819

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), May 23, 2005, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to timely remit the issue fee of $700.00 as required by the Notice of Allowance and Issue Fee Due (the "Notice") mailed April 8, 2004. The Notice set forth a three (3) month statutory period for reply. No response was received within the allowable period. Accordingly, this application became abandoned on July 9, 2004. A Notice of Abandonment was mailed on August 9, 2004.

The issue fee was received on May 23, 2005.

The application is being forwarded to the Office of Patent Publications for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin

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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DIW Sep-05

JONDLE & ASSOCIATES P.C.
858 HAPPY CANYON ROAD SUITE 230
CASTLE ROCK CO 80108

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SEP 29 2005

OFFICE OF PETITIONS

In re Application of :
Angel Antoinio Gargiulo :
Application No. 10/354,313 : DECISION ON PETITION
Filed: 29 January, 2003 :
Atty Docket No. 1441-002PP :

This is a decision on the petition filed on 22 August, 2005, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 27 November, 2003, for failure to timely reply to the non-final Office action mailed on 26 August, 2003, which set a three (3) month shortened statutory

[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continuing examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(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)).

period for reply. No extensions of time under 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 29 June, 2004.

This application is being referred to Technology Center 1661 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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PITNEY HARDIN LLP
7 TIMES SQUARE
NEW YORK NY 10036-7311

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OFFICE OF PETITIONS

In re Application of :
Watanabe, et al. :
Application No. 10/354,315 : DECISION ON PETITION
Filed: January 30, 2003 :
Attorney Docket No. 3038-196 :
For: IMAGE PROJECTING DEVICE

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed January 27, 2006 (certificate of mailing date January 25, 2006).

The petition under 37 CFR 1.181 to withdraw the holding of abandonment is **GRANTED**.

The Office contended that this application became abandoned on October 1, 2005 for failure to reply within months from the mail date of the non-final Office action mailed June 30, 2005. A Notice of Abandonment was mailed on January 26. 2006.

Petitioners argue that a Customer Number Upload Spreadsheet was uploaded by March 15, 2005 and the present application was included on the list as an application for which the address should be changed. Petitioners contend that the Office erred in not promptly changing Office records to reflect the new correspondence address for the present application. This error resulted in the June 30, 2005 non-final Office action being mailed to an out of date address and the subsequent abandonment of the application.

Petitioners have submitted a letter from the Patent Electronic Business Center that was transmitted on March 15, 2005. The letter states that the Customer Number Upload Spreadsheet for Customer Number 29540 was processed and the results returned to the customer via email. Petitioners have enclosed an e-mail from RightFax E-mail Gateway that shows the transmission on March 15, 2005 was successful.

Accordingly, the holding of abandonment is **withdrawn**. It is clear from the record that the Office mailed the Notice in question to an out of date address.

After the mailing of this decision, the application file will be returned to Technology Center AU

2675 for the re-mailing of the June 30, 2005 non-final Office action with a new period set for reply.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3230.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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SALLY J. BROWN
AUTOLIV ASP, INC.
3350 AIRPORT ROAD
OGDEN, UTAH 84405

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NOV 0 4 2005

OFFICE OF PETITIONS

In re Application of :
Robert E. Lewis :
Application No. 10/354,323 : DECISION ON PETITION
Filed: January 30, 2003 : 37 CFR 1.137(b)
Attorney Docket No. AAI-14206 :

This is a decision on the petition under 37 CFR §1.137(b), filed July 28, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to pay the issue fee in a timely manner in reply to the Notice of Allowance and Fee(s) Due, mailed April 27, 2005, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on July 28, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR §1.137(b) in that (1) the required issue fee at the time of filing the petition; (2) the petition fee of $1500.00 (for a large entity) at the time of filing the petition; and (3) the required statement of unintentional delay have been received. Accordingly, the issue fee is accepted as having been unintentionally delayed. A publication fee for early publication was charged on December 23, 2003. A copy of the PTO-948 Draftsman Review Form approving the drawings submitted July 28, 2005 is attached.

This matter is being referred to the Office of Patent Publications to be processed into a patent.

Telephone inquiries concerning this decision should be directed to Angela Ortiz at (571) 272-6051, or in her absence, the undersigned at (571) 272-3217.

Frances Hicks for

Brian Hearn
Petitions Examiner
Office of Petitions

Attachment: PTO-948 Draftsman Review Form

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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Foley and Lardner, LLP
Suite 500
3000 K Street NW
Washington, DC 20007

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In re Application of	:	
Tapesh Yadav et al.	:	
Application No. 10/354,352	:	DECISION ON PETITION
Filed: January 30, 2003	:	TO WITHDRAW
Attorney Docket No. 037768-0230	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 13, 2008.

The request is **moot because a revocation of power of attorney has been previously filed.**

A review of the file record indicates that the power of attorney to Stephen B. Maebius and all attorneys/agents associated with customer number 22428 has been revoked by the assignee of the patent application on July 2, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: PPG Industries Inc.
Intellectual Property Dept.
One PPG Place
Pittsburgh, PA 15272

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

CARLSON, GASKEY & OLDS, P.C.
400 WEST MAPLE ROAD
SUITE 350
BIRMINGHAM, MI 48009

Mail Date: 04/21/2010

Applicant	: Dale W. Maine	: DECISION ON REQUEST FOR
Patent Number	: 7603661	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/354,355	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/30/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1600** 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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Hahn Loeser & Parks, LLP
One Go To Plaza
Suite 300
Akron, OH 44313-1076

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OFFICE OF THE DIRECTOR
TC 3600

In re application of:
Heather Weiner et al.
Application No. 10/354,369
Filed: January 30, 2003
For: PORTABLE PLANT CONTAINER APPARATUS AND METHOD

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on April 26, 2004, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. Besides giving due notice to his or her client and delivering to the client all papers and property to which the client is entitled as specified under 37 CFR 10.40, approval of such a request requires that the following conditions be met:

A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;

B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and

C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

The request to withdraw as attorney is not accepted in the above-identified application because the request lacks condition B) above.

As to condition B), the reason "conflict of interest", is not appropriate. A proper reason for withdrawal is enumerated in 37 CFR 10.40(b) subsections (1)-(4) or subsections (1)-(6) of 37 CFR 10.40(c) must be provided.

Steven N. Meyers
Special Programs Examiner
Patent Technology Center 3600
(703) 308-3868

SMN/vdb: 10/18/04

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Paper No. None

GIFFORD, KRASS, SPRINKLE,ANDERSON & CITKOWSKI, P.C
PO BOX 7021
TROY MI 48007-7021

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JUN 07 2007

OFFICE OF PETITIONS

In re Application of :
Kenneth J. Kuenzel et al. :
Application No. 10/354,374 :
Filed: January 30, 2003 : DECISION ON PETITION
Attorney Docket No. PII-11008/04 : UNDER 37 C.F.R. §1.181(A)
Title: FLUOROPOLYMER COMPOSITE TUBE AND METHOD OF PREPARATION :

This is a decision on the petition pursuant to 37 C.F.R. §1.181(a), filed on February 13, 2007.

BACKGROUND

The above-identified application became abandoned for failure to file a timely and proper response to the Notice of Panel Decision from Pre-Appeal Brief Review (first notice), mailed November 22, 2005, which set a shortened statutory period to reply for one month. An appeal brief was filed on May 3, 2006. Although the appeal brief was filed with a general authorization to charge any required fees to a deposit account, the funds in the Deposit Account were insufficient to cover the five-month extension of time that was due. Consequently, a Notice Requiring Extension of Time Fee (second notice) was mailed on May 18, 2006. A Notice of abandonment was mailed on January 30, 2007.

RELEVANT PORTION OF THE C.F.R.

37 C.F.R. §1.8(b) sets forth, *in toto*:

(b) In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

ANALYSIS

The showing in the present petition is not sufficient to withdraw the holding of abandonment. Petitioner has asserted that a response to the second notice was timely submitted to the Office.

Petitioner has submitted a copy of this response, and it is noted that it contains both an authorization to charge a Deposit Account and a certificate of facsimile transmission dated May 22, 2006.

The electronic file has been reviewed, and it does not appear to contain a copy of this submission.

Certificate of facsimile transmission practice provides a mechanism by which Applicants may evince that a paper was timely submitted to the Office, in the event that the correspondence is not received.

Petitioner's submission has been reviewed: with the present petition, Petitioner has informed the Office of the previous facsimile transmission and provided an additional copy of the previously submitted correspondence. However, it is noted that the certificate of facsimile transmission was executed by one AnnMarie M. Deis, and it does not appear that Petitioner has included a statement from this individual. 37 C.F.R. §1.8(b)(3) requires the inclusion of a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. On renewed petition, Petitioner may wish to include a statement from Ms. Deis.

CONCLUSION

Pursuant to the discussion above, the submission is incomplete. It follows that the present petition pursuant to 37 C.F.R. §1.181 must be **DISMISSED**.

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. 1.181." This is not a final agency action within the meaning of 5 U.S.C 704.

Alternatively, Petitioner may wish to consider filing a petition under 37 C.F.R. §§1.137(a) and/or (b).

Any subsequent petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[1], hand-delivery[2], or facsimile[3]. 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. Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[4]. 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 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
2 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
3 (571) 273-8300- please note this is a central facsimile number.
4 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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TROY MI 48007-7021

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JUN 25 2007

OFFICE OF PETITIONS

In re Application of :
Kenneth J. Kuenzel et al. :
Application No. 10/354,374 :
Filed: January 30, 2003 : DECISION ON RENEWED PETITION
Attorney Docket No. PII-11008/04 : UNDER 37 C.F.R. §1.181(A)
Title: FLUOROPOLYMER COMPOSITE TUBE AND METHOD OF PREPARATION :

This is a decision on the renewed petition pursuant to 37 C.F.R. §1.181(a), filed on June 21, 2007.

BACKGROUND AND PROCEDURAL HISTORY

The above-identified application became abandoned for failure to file a timely and proper response to the Notice of Panel Decision from Pre-Appeal Brief Review (first notice), mailed November 22, 2005, which set a shortened statutory period to reply for one month. An appeal brief was filed on May 3, 2006. Although the appeal brief was filed with a general authorization to charge any required fees to a deposit account, the funds in the Deposit Account were insufficient to cover the five-month extension of time that was due. Consequently, a Notice Requiring Extension of Time Fee (second notice) was mailed on May 18, 2006. A Notice of abandonment was mailed on January 30, 2007.

An original petition was filed on February 13, 2007, and was dismissed via the mailing of a decision on June 7, 2007.

The decision on the original petition set forth:

> The showing in the present petition is not sufficient to withdraw the holding of abandonment. Petitioner has asserted that a response to the second notice was timely submitted to the Office.
>
> Petitioner has submitted a copy of this response, and it is noted that it contains both an authorization to charge a Deposit Account and a certificate of facsimile transmission dated May 22, 2006.
>
> ...
>
> Petitioner's submission has been reviewed: with the present petition, Petitioner has informed the Office of the previous facsimile transmission and provided an additional copy of the previously submitted correspondence. However, it is noted that the certificate of facsimile transmission was executed by one AnnMarie M. Deis, and it does not appear that Petitioner has included a statement from this individual. 37 C.F.R. §1.8(b)(3) requires the inclusion of a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. On renewed petition, Petitioner may wish to include a statement from Ms. Deis (emphasis included).

CONCLUSION

With this renewed petition, Petitioner has included a statement from Ms. Deis, attesting to the prevenient transmission.

Considering the facts and circumstances of the delay at issue, as set forth on renewed petition, it is concluded that Petitioner has met his burden of establishing that a complete response was timely submitted, pursuant to 37 C.F.R. § 1.8.

Accordingly, the petition under 37 C.F.R. § 1.181(a) is **GRANTED**. The holding of abandonment is **WITHDRAWN**. The five-month extension of time has been charged to Petitioner's Deposit Account, pursuant to the authorization that was originally transmitted to the Office on May 22, 2006.

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the Appeal Brief that was received on May 3, 2006 can be processed. Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

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ROSENBERG, KLEIN & LEE
3458 ELLICOTT CENTER DRIVE-SUITE 101
ELLICOTT CITY MD 21043

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OFFICE OF PETITIONS

In re Patent No. 6,691,842 :
Issue Date: February 17, 2004 :
Application No. 10/354,392 : DECISION ON PETITION
Filed: January 31, 2003 :
For: SHOCK ABSORBER FOR A RADIO CONTROL MODEL :

This is a decision on the petition under 37 CFR 1.182, filed October 13, 2006, requesting issuance of a duplicate Letters Patent for the above-identified patent.

The petition is **GRANTED**.

The Publishing Division is directed to issue a duplicate Letters Patent.

As authorized, the $400 fee for the petition under 37 CFR 1.182 has been assessed to petitioner's deposit account.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3205. Inquiries regarding the issuance of a duplicate Letters Patent may be directed to Krystal Paige in the Publishing Division at (703) 308-9250, Ext. 139.

A copy of this decision is being faxed to Publishing Division for issuance of a duplicate Letters Patent.

Alesia M. Brown
Petitions Attorney
Office of Petitions

cc: Krystal Paige, South Tower, 8th Floor, Room C32 (Fax No. (571) 270-9937)
Niomi Farmer, Office of Data Management, Phone: 703-308-9250 x129, Fax: 571-270-9753

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Paper No. 5

CARY S. KAPPEL
DAVIDSON DAVIDSON & KAPPEL LLC
485 SEVENTH AVENUE, 14TH FLOOR
NEW YORK, NY 10018

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DEC 12 2003

OFFICE OF PETITIONS

In re Application of
Pierre-Alain Cotte
Application No. 10/354,396
Filed: January 29, 2003
Attorney Docket No. 5007.1013

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.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

Effective December 1, 2003, the Office of Petitions can no longer receive hand-carried correspondence, or facsimile transmissions of correspondence. The centralized location for hand-carried correspondence is the Customer Window located at:

2011 South Clark Place
Crystal Plaza Two, Lobby
Arlington, VA 22202

The centralized facsimile number is **(703) 872-9306.**

This file is being forwarded to Technology Center AU 2157.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

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In re Application of	:	
Li et al.	:	
Application No. 10/354,431	:	DECISION ON APPLICATION
Filed: January 30, 2003	:	FOR PATENT TERM ADJUSTMENT
Attorney Docket Number:	:	
1401R	:	

This is a decision on the "Request for Patent Term Adjustment Pursuant to 37 CFR 1.705", filed November 4, 2005. This matter is being properly treated under 37 CFR 1.705(b) as a timely filed application for patent term adjustment.

The application for patent term adjustment ("PTA") under 37 CFR 1.705(b) is hereby **GRANTED**.

The correct patent term adjustment (PTA) under 37 CFR §§ 1.702(a)(1) and 1.704(c)(8) at the time of the allowance is 276 days. The Office will adjust the PAIR screen to reflect that the PTA determination at the time of mailing of the instant letter reflects an adjustment of 276 days. A copy of the updated PAIR screen showing the correct determination is enclosed.

On October 17, 2005, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 274 days. On November 4, 2005, applicants timely submitted the instant application for patent term adjustment[1]. Applicant requests that the Determination of Patent Term Adjustment be corrected from 274 days, as indicated on the Determination of PTA mailed October 17, 2005, to an adjustment of 276 days. In support of this assertion, applicant

[1] PALM records show that the Issue Fee payment was received in the Office on January 3, 2006.

provides that reduction of period of adjustment of patent term under 37 CFR 1.704(8) is incorrectly calculated based upon Applicant's filing of a response after non-final rejection on filed on July 27, 2005. Applicant provides that Office records incorrectly indicate that the response after non-final rejection was filed on July 25, 2005.

A review of Office records reveals that Applicant is correct. The response after non-final rejection was filed on July 27, 2005. As such, the period of reduction under 37 CFR 1.704(c)(8) is 33 days, counting the number of days in the period beginning on July 28, 2005, the day after the date the initial reply was filed, and ending on the date of the supplemental reply, an IDS filed August 29, 2005.

A review of the application history further reveals that, as of the time of allowance, a reduction of 33 days can be attributed to Applicant in accordance with 37 CFR 1.704(c)(8).

In view thereof, at the time of allowance, the application is entitled to an adjustment of 276 days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Publications Division for issuance of a patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this matter should be directed to Petitions Attorney Derek L. Woods at (571) 272-3232.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of Adjustment PAIR Calculations

Day : Thursday
Date: 5/11/2006

PALM INTRANET

Time: 13:52:38

PTA Calculations for Application: 10/354431			
Application Filing Date:	01/30/2003	PTO Delay (PTO):	309
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	35
Post-Issue Petitions:	0	Total PTA (days):	276
PTO Delay Adjustment:	2		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
38	05/11/2006	ADJUSTMENT OF PTA CALCULATION BY PTO		33	
37	05/11/2006	ADJUSTMENT OF PTA CALCULATION BY PTO	35		
28	10/17/2005	MAIL NOTICE OF ALLOWANCE			
27	10/17/2005	MAIL EXAMINER'S AMENDMENT			
26	10/14/2005	ISSUE REVISION COMPLETED			
25	10/14/2005	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
24	10/14/2005	EXAMINER'S AMENDMENT COMMUNICATION			
23	10/14/2005	NOTICE OF ALLOWABILITY			
22	08/29/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		35	20
21	08/04/2005	DATE FORWARDED TO EXAMINER			
20	07/25/2005	RESPONSE AFTER NON-FINAL ACTION			
19	04/27/2005	MAIL NON-FINAL REJECTION			
18	04/26/2005	NON-FINAL REJECTION			
17	04/05/2005	CASE DOCKETED TO EXAMINER IN GAU			
16	01/30/2003	REFERENCE CAPTURE ON IDS			
15	03/16/2005	DATE FORWARDED TO EXAMINER			
14	03/02/2005	RESPONSE TO ELECTION / RESTRICTION FILED			
13	02/02/2005	MAIL RESTRICTION REQUIREMENT	309		-1
12	02/01/2005	REQUIREMENT FOR RESTRICTION / ELECTION			
11	10/28/2003	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
10	10/28/2003	CORRESPONDENCE ADDRESS CHANGE			
9	04/25/2003	CASE DOCKETED TO EXAMINER IN GAU			
8	01/30/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			

7	04/14/2003	APPLICATION DISPATCHED FROM OIPE			
6	04/11/2003	APPLICATION IS NOW COMPLETE			
3	04/04/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
2	02/10/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	01/30/2003	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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Back to PALM | ASSIGNMENT | OASIS | Home page

FEB 03 2005
PATENT & TRADEMARK OFFICE

Pet. Dec. 1743 SFW

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	10/354,453
Filing Date	01/30/2003
First Named Inventor	Randy Brewer
Art Unit	1743
Examiner Name	Lyle Alexander
Attorney Docket Number	WTMD.103338

To: Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Approved
JMStone
Jacqueline M. Stone, Director
Technology Center 1700
5/26/05

Please withdraw me as attorney or agent for the above identified patent application, and

- ☐ all the attorneys/agents of record.
- ☐ the attorneys/agents (with registration numbers) listed on the attached paper(s), or
- ☑ the attorneys/agents associated with Customer Number 5251

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: We have ceased work on this matter due to outstanding financial balance.

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	Randy Brewer, Witness Medco, LLC				
Address	407 E. 4th Avenue				
City	Kingman	State	Kansas	Zip	67068
Country	USA				
Telephone		Fax			
Signature	Jean M. Dickman				
Name	Jean M. Dickman	Registration No.	48,538		
Date	January 31, 2005	Telephone No.	816.474.6550		

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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Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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LAW OFFICE OF ROMERT O. BLINN
P.O. BOX 75144
WICHITA, KS 67275-0144

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APR 19 2007

OFFICE OF PETITIONS

In re Application of :
Abe Erdman Jr. et al :
Application No. 10/354,453 : ON PETITION
Filed: January 30, 2003 :
Attorney Docket No. :

This is a decision on the petition under 37 CFR 1.137(b), filed September 21, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 20, 2005, which set a shortened statutory period for reply of three (3) months. Three-month extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on March 21, 2006.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 1743 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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
10/354,453	01/30/2003	Abe Erdman JR.	

CONFIRMATION NO. 9752

LAW OFFICE OF ROBERT O. BLINN
P.O. BOX 75144
WICHITA, KS 67275-0144

OC000000023439120
OC000000023439120

Date Mailed: 04/18/2007

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/21/2006.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
ATTORNEY/APPLICANT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/354,453	01/30/2003	Abe Erdman JR.	

CONFIRMATION NO. 9752

Randy Brewer, Witness Medco, LLC
407 E 4th Avenue
Kingman, KS 67088

OC000000023439074
OC000000023439074

Date Mailed: 04/18/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/21/2006.

- The Power of Attorney to you in this application has been revoked by the applicant. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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CHRISTOPHER P. MAIORANA, PC
LSI CORPORATION
24840 HARPER
SUITE 100
ST CLAIR SHORES MI 48080

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In re Application of :
Dean L. Raby et al :
Application No. 10/354,456 : DECISION ON PETITION
Filed: January 30, 2003 :
Attorney Docket No. 02-4472 1496.00280 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 26, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an RCE and a previously filed amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final rejection mailed December 22, 2008, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 2611 for appropriate action by the Examiner in the normal course of business on the reply received October 26, 2009.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JJGJR.: 08-06

Paper No: __

SYNNESTVEDT & LECHNER LLP
2600 ARAMARK TOWER
1101 MARKET STREET
PHILADELPHIA PA 19107-2950

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OFFICE OF PETITIONS

In re Application of
Devane, et al :
Application No. 10/354,483 : ON PETITION
Filed: 30 January, 2003 :
Patent No. 6,793,936
Issue Date: 21 September, 2004
Attorney Docket No. P-26522-E USA :

This is a decision on the petition of 27 March, 2006, under 37 C.F.R. §1.182 to withdraw the terminal disclaimer filed of record in the instant application on 26 November, 2003.[1]

The petition under 37 C.F.R. §1.182 to withdraw the terminal disclaimer is **DISMISSED**.

BACKGROUND

Petitioner avers that:

- the instant application issued as Patent No. 6,793,936 (the '936 patent) on 21 September, 2004–a date of importance in that any broadening re-issue must be filed within two years of issue–and so issued with Terminal Disclaimer (the Disclaimer), filed of record on 26 November, 2003, as to Patent No. 6,228,398 (the '398 patent);

[1] Petitioner misstates this date as 24 November, 2003, due to an apparent confusion in this matter as to the difference between the date of submission and the date of filing.

- Petitioner now avers that the Disclaimer is unclear and contradictory in that it recites "two different dates beyond which the terminal part of the '936 patent is disclaimed[,]" and so should be withdrawn in favor of a replacement Terminal Disclaimer;

- to this end, Petitioner has submitted a "new unambiguous terminal disclaimer" to be substituted;

- the Examiner has been asked to consider Petitioner's request, and the Examiner has done so, and the Examiner has, as of this writing, refused to agree to the withdrawal.

Moreover, as of this writing, the Examiner has indicated that Petitioner must seek to file a re-issue.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

---

[2] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

Specifically, the regulations at 37 C.F.R. §10.18 provide:

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—

(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and

(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —

(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;

(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.

(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, 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 —

LAW AND ANALYSIS

Congress has provided at 35 U.S.C. §253:

> A patentee, whether of the whole or any sectional interest therein, may, on payment of the fee required by law, make disclaimer of any complete claim, stating therein the extent of his interest in such patent. Such disclaimer shall be in writing, and recorded in the Patent and Trademark Office; and it shall thereafter be considered as part of the original patent to the extent of the interest possessed by the disclaimant and by those claiming under him In like manner any patentee or applicant may disclaim or dedicate to the public the entire term, or any terminal part of the term, of the patent granted or to be granted.

The regulations at 37 C.F.R. §1.183 provide that:

> In an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Director or the Director's designee, *sua sponte*, or on petition of the interested party, subject to such other requirements as may be imposed. Any petition under this section must be accompanied by the petition fee set forth in §1.17(h).

The regulations at 37 C.F.R. §1.321 provide in pertinent part:

> * * *
>
> (b) An applicant or assignee may disclaim or dedicate to the public the entire term, or any terminal part of the term, of a patent to be granted. Such terminal disclaimer is binding upon the grantee and its successors or assigns. The terminal disclaimer, to be recorded in the Patent and Trademark Office, must:
>
> (1) be signed:
>
> (I) by the applicant, or
>
> (ii) if there is an assignee of record 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]

> an undivided part interest, by the applicant and such assignee, or
> (iii) if there is an assignee of record of the entire interest, by such assignee, or
> (iv) by an attorney or agent of record;
> (2) specify the portion of the term of the patent being disclaimed;
> (3) state the present extent of applicant's or assignee's ownership interest in the patent to be granted; and
> (4) be accompanied by the fee set forth in § 1.20(d).
> (c) A terminal disclaimer, when filed to obviate a judicially created double patenting rejection in a patent application or in a reexamination proceeding, must:
> (1) Comply with the provisions of paragraphs (b)(2) through (b)(4) of this section;
> (2) Be signed in accordance with paragraph (b)(1) of this section if filed in a patent application or in accordance with paragraph (a)(1) of this section if filed in a reexamination proceeding; and
> (3) Include a provision that any patent granted on that application or any patent subject to the reexamination proceeding shall be enforceable only for and during such period that said patent is commonly owned with the application or patent which formed the basis for the rejection.
> * * *

The Patent and Trademark Office must rely on the actions or inactions of duly authorized and voluntarily chosen representatives of the applicant, and applicant is bound by the consequences of those actions or inactions.[3]

CONCLUSION

For the foregoing reasons, the petition is **dismissed**.

The instant file is being released to IFW Files Repository.

While telephone inquiries regarding this decision may be directed to the undersigned at (571)

---

[3] Link v. Wabash, 370 U.S. 626, 633-34 (1962); Huston v. Ladner, 973 F.2d 1564, 1567, 23 USPQ2d 1910, 1913 (Fed. Cir. 1992); see also Haines v. Quigg, 673 F. Supp. 314, 317, 5 USPQ2d 1130, 1132 (D.N. Ind. 1987).

272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[4]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[4] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing.The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation,or understanding in relation to which there is disagreement or doubt.

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XILINX, INC
ATTN: LEGAL DEPARTMENT
2100 LOGIC DR
SAN JOSE CA 95124

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OFFICE OF PETITIONS

In re Application of :
Keller, et al. :
Application No. 10/354,493 : ON PETITION
Filed: January 30, 2003 :
Attorney Docket No. X-1149 US :

This is a decision on the petition under 37 CFR 1.137(b), filed January 27, 2006, to revive the above-identified application.

This application became abandoned for failure to timely pay the issue fee within three (3) months of the mailing of the Notice of Allowance and Fee(s) Due, mailed October 26, 2005. Accordingly, this application became abandoned on January 27, 2006. The filing of the instant petition precedes the mailing of A Notice of Abandonment.

Applicants have submitted a proper reply in the form of the issue fee and a completed PTOL-85, an acceptable statement of the unintentional nature of the delay in responding to the October 26, 2005 Notice of Allowance and Fee(s) Due, and the petition fee.

The petition is **granted**.

This application is being forwarded to Publishing Division for processing into a patent.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

THOMAS A. MILLER
MILLER, MATHIAS AND HULL
ONE NORTH FRANKLIN STREEET
SUITE 2350
CHICAGO IL 60606

In re Application of :
Andrew H. Cragg, et al. :
Application No. 10/354,517 : DECISION ON PETITION
Filed: January 29, 2003 : TO WITHDRAW
Attorney Docket No. 034298-146 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 12, 2005.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney has been revoked by the assignee of the patent application on October 21, 2005. 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. All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

Conferee:

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:2/23/2006

DATE : February 23, 2006

TO SPE OF : ART UNIT 1626

SUBJECT : Request for Certificate of Correction on Patent No.: 6,777,426 B2

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-910
Palm location **7590** - Tel. No. 305-8201

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☑ **Approved** **All** changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

SPE: Joseph K. McKane **Art Unit** 1626

#4

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Paper No. 4

Elliot Furman
SKYMOON VENTURES
3045 Park Blvd.
Palo Alto, CA 94306

In re Application of:
Timithoy L. Kelliher, et al.
Application No. 10/354,529
Filed: January 30, 2003
For: UNIVERSAL BROADBAND SERVER SYSTEM AND METHOD

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed July 07, 2003.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request filed July 07, 2003 meets all the requirements. Accordingly the request is **GRANTED**.

All future communications from the Office will be directed to the above-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

James R. Matthews

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
703-305-9750

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FISH & RICHARDSON P.C.
PO BOX 1022
MINNEAPOLIS MN 55440-1022

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APR 16 2009

OFFICE OF PETITIONS

In re Patent No. 7,238,348	:	
Liang et al.	:	DECISION ON REQUEST FOR
Issue Date: July 3, 2007	:	RECONSIDERATION OF PATENT
Application No. 10/354,537	:	TERM ADJUSTMENT
Filed: January 28, 2003	:	
Attorney Docket No.	:	
09273-004001	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d)" filed on September 4, 2007. Patentees request that the Patent Term Adjustment for the above-identified patent be increased by 43 days from 486 days to 529 days.

The request for reconsideration of the patent term adjustment indicated in the patent is **DISMISSED**.

Patentees are given **TWO (2) MONTHS** to respond to this decision. **No extensions of time will be granted under § 1.136.**

Patentees state the subject patent is not subject to a terminal disclaimer.

On July 3, 2007, the above-identified application matured into U.S. Patent No. 7,238,348. The instant request for reconsideration filed on September 4, 2007, was timely filed within 2 months of the date the patent issued. See § 1.705(d). The Patent issued with a revised Patent Term Adjustment of 486 days. This revised determination was calculated as follows: The initial determination of PTA of 529 days was reduced by 29 days for the filing of an amendment after the mailing of a notice of

allowance and for 14 days for the filing of a supplemental Application Data Sheet (ADS) after the mailing of a notice of allowance.

Patentees contend that there should be no reduction in patent term adjustment. Specifically, patentees contend that the amendment after the mailing of the notice of allowance was necessitated by an error in the examiner's amendment accompanying the notice of allowance, and that the supplemental ADS should not be construed as a failure to engage in efforts to conclude prosecution.

37 CFR 1.704(c) provides, in pertinent part, that:

Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:

> (10) Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of:
>
> (i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper; or
>
> (ii) Four months; …

With respect to the amendment under § 1.312, patentees' argument has been considered but not found persuasive. As stated in the *Clarification of 37 CFR 1.704(c)(10) - Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance has been Mailed*, 1247 Off. Gaz. Pat. Office 111 (June 26, 2001), and in MPEP 2701, an amendment under 37 CFR 1.312 is a paper that will be considered a failure to engage in reasonable efforts to conclude processing or examination of an application. Entry of the period of reduction of 29 days is warranted and will not be removed.

Further, patentees' argument that the supplemental ADS is filed in response to a express request by the examiner is unconvincing. The supplemental ADS was required to correct the residence address of the inventors in that the country was missing as required by MPEP 605.02 and 605.03. This is a matter which could have been corrected by patentees prior to the issuance of a notice of allowance. Accordingly, the filing of an ADS to correct the residence of the inventors after the mailing of a notice of allowance is a failure to engage in reasonable efforts to conclude processing or examination of an application

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

In view thereof, the patent term adjustment was correctly indicated on the patent as issued.

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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P.O. Box 1450
Alexandria, VA 22313-1450
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MB

Mailed: 6-20-07

Paper Number

In re application of :
Jeffrey A. Nielsen et al. : DECISION ON
Serial No. 10/354,538 : PETITION
Filed: January 29, 2003 :
For: METHODS AND SYSTEMS FOR PRODUCING AN OBJECT THROUGH SOLID FREEFORM FABRICATION BY VARYING A CONCENTRATION OF EJECTED MATERIAL APPLIED TO AN OBJECT LAYER

This is a decision on the PETITION UNDER 37 CFR 1.181 FOR ENTRY OF THE AFTER FINAL AMENDMENT filed April 25, 2007.

On July 6, 2006, a final office action was mailed to Applicants, rejecting all of the pending claims under 35 USC 112 or 35 USC 103. Applicants responded to this office action with an Appeal Brief, which was filed on February 23, 2007. Applicants also filed an after-final amendment, concurrently with the Appeal Brief, on February 23, 2007. The examiner refused entry of the amendment in an advisory action mailed March 14, 2007.

On April 25, 2007, the instant petition under 37 CFR 1.181 was timely filed to request the entry of the after final amendment of February 23, 2007.

Petitioner's position is that the amendment after final merely corrects an obvious typographical error and thus would present the claims in better form for appeal.

DECISION

Section 714.13 of the MPEP states:

ENTRY NOT A MATTER OF RIGHT

It should be kept in mind that applicant cannot, as a matter of right, amend any finally rejected claims, add new claims after a final rejection (see 37 CFR 1.116) or reinstate previously canceled claims.
Except where an amendment merely cancels claims, adopts examiner suggestions, removes issues for appeal, or in some other way requires only a cursory review by the examiner, compliance with the requirement of a showing under 37 CFR 1.116(c) is expected in all amendments after final rejection. Failure to properly reply under 37 CFR 1.113 to the final rejection results in abandonment.

An amendment filed at any time after final rejection, but before an appeal brief is filed, may be entered upon or after filing of an appeal brief provided the total effect of the amendment is to (A) remove issues for appeal, and/or (B) adopt examiner suggestions.

ACTION BY EXAMINER
See also MPEP § 706.07(f).
In the event that the proposed amendment does not place the case in better form for appeal, nor in condition for allowance, applicant should be promptly informed of this fact, whenever possible, within the statutory period. The refusal to enter the proposed amendment should not be arbitrary. The proposed amendment should be given sufficient consideration to determine whether the claims are in condition for allowance and/or whether the issues on appeal are simplified. Ordinarily, the specific deficiencies of the amendment need not be discussed. The reasons for nonentry should be concisely expressed. For example:

(A) The claims, if amended as proposed, would not avoid any of the rejections set forth in the last Office action, and thus the amendment would not place the case in condition for allowance or in better condition for appeal.
(B) The claims, if amended as proposed, would raise the issue of new matter.
(C) The claims as amended present new issues requiring further consideration or search.
(D) Since the amendment presents additional claims without canceling any finally rejected claims it is not considered as placing the application in better condition for appeal. *Ex parte Wirt*, 1905 C.D. 247, 117 O.G. 599 (Comm'r Pat. 1905).

Turning to the after-final amendment of February 23, 2007, the amendment makes a change Claim 54, which the Petitioner asserts merely corrects a typographical error, which places the claim in better condition for appeal. Entry of such amendment is provided for by 37 CFR 1.116. This argument is persuasive

Because the after final amendment does not present any new issues requiring further search and/ or consideration, and because the amendment reduces the issues for appeal, the denial of entry by the examiner was improper. Accordingly, the petition for entry of the after final amendment is **GRANTED.**

The application has been forwarded to the examiner for consideration of the Appeal Brief, filed February 23, 2007.

Marian Knode

Marian Knode, Director
Technology Center 1700
Chemical and Materials Engineering

STEVEN L. NICHOLS, ESQ.
RADER FISHMAN & GRAUER PLLC
RIVER PARK CORPORATE CENTER ONE
10653 S. RIVER FRONT PARKWAY, SUITE 150
SOUTH JORDAN, UTAH 84095

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Paper No. 030304

STONEMAN LAW OFFICES, LTD
3113 North 3rd Street
Phoenix, AZ 85012

MAR - 8 2004

In re Application of:
Lexington P. Bartlett
Serial No.: 10/354,544
Filed: January 29, 2003
Attorney Docket No.: **P01652**

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 November 17, 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 Martin L. Stoneman, on behalf of himself and all the attorneys associated with Customer No. 28548. 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 inventor, Lexington P. Bartlett, at the address indicated below 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: Lexington P. Bartlett
8509 East Leigh Drive, Unit A
Prescott Valley, Arizona 88314

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CLIFFORD J MASS
C/O LADAS & PARRY LLP
26 WEST 61ST ST
NEW YORK NY 10023

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JUL 17 2009

OFFICE OF PETITIONS

In re
Chen, et al.
Application No. 10/354,550
Filed: January 29, 2003
Patent No. 6,961,036
Issued: November 1, 2005

DECISION

This is a decision on the fee deficiency submission under 37 CFR 1.28(c), filed May 5, 2009.

The fee deficiency submission under 37 CFR 1.28 of $490, representing the difference between the small entity and large entity 3 ½ year maintenance fee, is hereby **accepted**.

The change of status to large entity has been entered.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

Mail Date: 04/21/2010

Applicant	: Mark Hunter	: DECISION ON REQUEST FOR
Patent Number	: 7660623	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/354,562	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/30/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1439** 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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SHOOK, HARDY & BACON L.L.P.
(MICROSOFT CORPORATION)
INTELLECTUAL PROPERTY DEPARTMENT
2555 GRAND BOULEVARD
KANSAS CITY, MO 64108-2613

Mail Date: 04/21/2010

Applicant	: Jonathan C. Cluts	: DECISION ON REQUEST FOR
Patent Number	: 7636853	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/354,589	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/30/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **901** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Paper No. 5

DAVIDSON DAVIDSON & KAPPEL
485 SEVENTH AVENUE
14TH FLOOR
NEW YORK, NY 10018

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DEC 2 3 2003

OFFICE OF PETITIONS

In re Application of :
Pierre-Alain Cotte :
Application No. 10/354,593 : NOTICE
Filed: January 29, 2003 :
Attorney Docket No. 5007.1009 :

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 2666.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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HUNTON & WILLIAMS LLP
INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET NW
SUITE 1200
WASHINGTON DC 20006-1109

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MAR 16 2009

OFFICE OF PETITIONS

In re Application of :
Alexander William Evans :
Application No. 10/354,609 : ON PETITION
Filed: January 30, 2003 :
Attorney Docket No. 74447.000002 :

This is a decision on the petition to revive under 37 CFR 1.137(b), filed February 13, 2009.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to timely file a reply in response to the Office action mailed February 11, 2008. This Office action set a shortened statutory period for reply of one (1) month. No response having been received, the application became abandoned on March 12, 2008. The Office mailed a Notice of Abandonment on August 14, 2008.

With the instant petition, petitioner made the proper statement of unintentional delay, paid the petition fee, and submitted the required reply in the form of an Election.

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 $1175 extension of time fee submitted with the petition on February 13, 2009 was subsequent to the maximum period obtainable for reply (August 11, 2008), this fee has been refunded to petitioner's Deposit Account 50-0206.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The application is being forwarded to Group Art Unit 3691 for consideration of the Election filed February 13, 2009.

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 : 03/04/06

TO SPE OF : ART UNIT **2862**

SUBJECT : Request for Certificate of Correction on Patent No.: 10/354616 6927567

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-305-9380 ext. 123

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☑ **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments:

The Request for Certificate of Correction was involved only Typographical errors.

SPE

2862
Art Unit

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BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

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JUN 27 2005

OFFICE OF PETITIONS

In re Application of	:	
Andersen, Erik	:	
Application No. 10/354,637	:	ON PETITION
Filed: January 29, 2003	:	
Attorney Docket No. 42.P8412C	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed June 16, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed July 30, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on November 2, 2004. A Notice of Abandonment was mailed on May 16, 2005.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

This matter is being referred to the Publishing Division for processing into a patent.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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DW 04-03

Paper No. 4

BEUSSE, BROWNLEE, BOWDOIN & WOLTER, P. A.
390 NORTH ORANGE AVENUE
SUITE 2500
ORLANDO FL 32801

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APR 0 9 2003

OFFICE OF PETITIONS

In re Application of :
Baig et al. :
Application No. 10/354,638 :DECISION GRANTING PETITION
Filed: 30 January, 2003 :
Atty Dckt No. 20-LC-5025/624226-356 :

This is a decision on the petition under 37 CFR 1.10(c) filed on 1 April, 2003 (certificate of mailing date 27 March, 2003), requesting that the above-identified application be accorded a filing date of 30 January, 2003, instead of the presently accorded filing date of 31 January, 2003.

The petition is **GRANTED**.

Petitioner asserts that the application was deposited in Express Mail service on 30 January, 2002. In support, petitioners have provided a copy of USPS Express Mail Customer Online Record No. EO000508141US (the same Express Mail number found on the itemized Utility Patent Application Transmittal sheet filed with the original application papers located in the official file). The "date-in" on the Express Mail Customer Online Record is 30 January, 2003. The Customer Online Record also contains an Official USPS Postmark dated 30 January, 2003.

In view of the evidence present in the file, it is concluded that the correct date of deposit in Express Mail service is 30 January, 2003.

In view of the above, the application is entitled to a filing date of 30 January, 2003.

The petition is granted. No petition fee has been submitted and none is due.

The application is being returned to Office of Initial Patent Examination for reprocessing with a filing date of 30 January, 2003, not 31 January, 2003, and for issuance of a corrected Filing Receipt.

Telephone inquiries may be directed to the undersigned at 703-308-6918.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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PYLE & PIONTEK
221 N LASALLE - ROOM 2038
CHICAGO IL 60601

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OFFICE OF PETITIONS

In re Application of	:	
Tiwari et al.	:	
Application No. 10/354,639	:	ON PETITION
Filed: January 30, 2003	:	
Attorney Docket No. VAV-40006	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed June 13, 2006 and supplemented August 22, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an Amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

This matter is being referred to Technology Center 2600 for further examination on the merits.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

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JUN - 2 2005

EDWARD M. LIVINGSTON, PA
963 TRAIL TERRACE DRIVE
NAPLES FL 34103

In re Application of	:
Vincenzo Guiliano et al	:
Serial No.: 10/354,644	: PETITION TO MAKE SPECIAL
Filed: January 29, 2003	:
Attorney Docket No.: 02-5165	:

This is in response to the petition filed April 7, 2005, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, I. Therefor the petition is **GRANTED**.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at 571-273-8300.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

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MORGAN & FINNEGAN, LLP
3 WORLD FINANCIAL CENTER
NEW YORK, NY 10281-2101

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JUL 2 9 2005

OFFICE OF PETITIONS

In re Application of :
Nagai Yoshiyuki :
Application No. 10/354,658 : ON PETITION
Filed: January 30, 2003 :
Attorney Docket No. 1232-4954

This is a decision on the petition, filed July 28, 2005 under 37 CFR 1.313(c)(2), to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 19, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2828 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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Paper No. 5

DAVIDSON DAVIDSON & KAPPEL
485 SEVENTH AVENUE, 14TH FLOOR
NEW YORK, NY 10018

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DEC 10 2003

OFFICE OF PETITIONS

In re Application of :
Pierre-Alain Cotte :
Application No. 10/354,671 : NOTICE
Filed: January 29, 2003 :
Attorney Docket No. 5007.1012 :

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 2154.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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HOGAN & HARTSON LLP
ONE TABOR CENTER, SUITE 1500
1200 SEVENTEENTH ST
DENVER, CO 80202

Mail Date: 04/20/2010

Applicant	: Franck Thebault	: DECISION ON REQUEST FOR
Patent Number	: 7580477	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/354,675	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/30/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1730** 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

MAY 10 2006

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

HOFFMAN-LA ROCHE, INC.
PATENT LAW DEPARTMENT
340 KINGSLAND STREET
NUTLEY, NJ 07110

In re Application of :
Dorothee Foernzler et al :
Serial No.: 10/354,693 : DECISION ON PETITION
Filed : January 30, 2003 :
Attorney Docket No.: 221067 :

This letter is in response to the Petition under 37 C.F.R. 1.144 filed on March 22, 2006, to withdraw the examiner's restriction requirement.

BACKGROUND

A review of the file history shows that this application was filed under 35 U.S.C. 111 on January 30, 2003, and contained claims 1-20. On August 22, 2005, the examiner made a restriction requirement under 35 U.S.C. 121, dividing claims 1-20 into 5 groups, as follows:

> Group I, claims 2-20 and 31 drawn to methods of correlating single nucleotide polymorphisms in the NKNA gene with the efficacy and compatibility of a pharmaceutically active compound, this group was subjected to further restriction as explained below.
> Group II, claims 21-26, drawn to nucleic acids, this group was also subjected to further restriction which will be explained below.
> Group III, claim 28, drawn to pharmaceutical packs comprising NK-1 receptor antagonists, this group was also subjected to further restriction as explained below.
> Group IV, claim 29, drawn to methods of treating a NK-1 receptor ligand-mediated disease, this group was also subjected to further restriction as explained below.
> Group V, claim 30, drawn to a computer readable medium, this group was also subjected to further restriction as is explained below.

The examiner stated that claims 1 and 11 are linking claims for Group I, and claim 27 is a linking claim for Group 3. The restriction requirement among the linked inventions is

subject to the non-allowance of the linking claims, claims 1, 11 and 27. The linking claims will be examined with the invention elected.

Groups I-V were subjected to further restriction. Regarding Groups I and III-V, in which applicants were required to elect one or a specific combination of polymorphisms selected from positions 33612, 33949, 37025, 37025, 37114, 37434, 41112 or 41172 of the nucleotide sequence in Figure 2 for the prosecution of the relevant claims of Groups I-V. Regarding Group II, applicants were required to elect one of the polymorphisms recited in claim 21 and one primer pair from the SEQ ID NOS recited in claim 23 that corresponded to the elected polymorphism for the prosecution of the relevant claims. The oligonucleotide probe (claims 24-26) that corresponds to the elected polymorphism would also be examined with regard to the limitations of instant claims 24-26. Any claim not drawn to the elected polymorphisms will be withdrawn from consideration. This was NOT an election of species. Nucleotide sequences encoding different proteins are structurally distinct chemical compounds and unrelated to one another.

The examiner then required an election of species. The examiner presented the following groups:

a) NK-1 receptor antagonists recited in instant claims 6 and 16 of Group I.

b) NK-1 receptor antagonists under drug development recited in instant claims 7 and 17 of Group I.

c) diseases or disorders recited in instant claims 8 and 18 of Group I.

Applicant was requested to elect one from each of the above species.

The examiner provided appropriate reasoning and support for each of the restriction requirements and the election of species requirement.

Applicants replied on September 26, 2005, and elected Group II, claims 21-26 and SNP 41172 and primer SEQ ID NO:8 with traverse. Applicants argued that there is no serious burden to search and examine all the Groups together, especially since all the polymorphisms recited in claim 21 and all the primers recited in claim 23 are classified in the exact same class and subclass.

The examiner mailed a non-final rejection to applicants on November 22, 2005, maintaining that the restriction requirement was proper since as noted in the restriction requirement, Group V is unrelated to Groups I-IV and Group I is unrelated to Group IV and therefore these groups require separate searches. Similar arguments were presented for the other Groups and their relationships. Additionally, applicants assert that because the polymorphisms in claim 21 and the primers in claim 23 are classified in the same class and subclass, there is no serious search burden. Although the different nucleic acids of Group III are classified in the same class and subclass, each nucleic acid requires a separate search and therefore constitutes a separate search burden. The examiner then

made the restriction requirement Final. The examiner then rejected claims 21-26 under 35 U.S.C. 112, second paragraph, as indefinite. Claims 21 was rejected under 35 U.S.C. 102(b) as anticipated by dbSNP ID rs# 2072100 and by GenBank accession number AC040907.3. Claims 21-22, 24 and 26 were rejected under 35 U.S.C. 102(e) as anticipated by Venter. Claims 21-22 and 24 were rejected under 35 U.S.C. 102(b) as anticipated by Qian et al and N_Gene accession number AAQ33591. Claims 22 and 24-25 were rejected under 35 U.S.C. 102(b) as anticipated by N_Gene accession number AAH26063 and by Harmer et al. Claim 23 was rejected under 35 U.S.C. 103(a) as unpatentable over Venter and claim 25 as unpatentable over Venter in view of Saiki et al. Claims 21-26 were further rejected under 35 U.S.C. 103(a) as unpatentable over dbSNP ID rs# 2072100 in view of Nerenberg et al

This petition to review the refusal of the examiner to consider the other SNPs and primers and the other groups was filed March 22, 2006, along with a response to the non-final office action.

DISCUSSION

The application, file history and petition have been considered carefully. In the Petition filed on March 22, 2006, applicants request the full breadth of claims 1-31 be examined.

Applicants request that the other SNPs, primers and groups besides the ones elected be considered along with the currently examined one. Applicants' reasons for this traversal are that all of the claimed polymorphisms and primers are encompassed by SEQ ID NO: 1 (Figure 2). Applicants also argue MPEP 808.02 stating that since the inventions are all in the same class and subclass that they should not be restricted. Applicants further argue, based on the search notes viewed in IFW, that the examiner has performed the required search on all of the inventions and no serious burden exists for maintaining the restriction requirement.

Although it appears from the search notes in IFW that a search of all appropriate areas for each of the inventive Groups has been made and there is, therefore, no undue burden of the examiner to rejoin all of the Groups, each Group is directed to a separate class of invention and the analysis of the results from the search recorded is different and does present a burden to the examiner inasmuch as different considerations must be taken into account for each different invention. The areas searched, which include several on-line databases, yielded results for elected Group II and the elected SNP only which required detailed analysis by the examiner. It is, however, noted that the basic sequence is relatively long and that applicants appear to claim only small portions related thereto relative to the identified SNPs. Thus, the search is for nucleotide sequences of 17-50 base pairs surrounding a single SNP, all of which are different. The classification is based on the entire sequence, not each individual SNP. For these reasons the restriction between the Groups is found to be proper.

However, claims 21-26 have been examined with respect to the elected, SNP 41172 and SEQ ID NO: 8, and these will continue to be examined.

DECISION

Applicants petition under 37 CFR 1.144 is **DENIED** for the reasons set forth above.

Any request for reconsideration of this decision must be made by way of a renewed petition and must be filed within **TWO MONTHS** of the date of mailing of this decision in order to be considered timely.

The application will be forwarded to the examiner for consideration of the amendment filed concurrently with the petition.

Should there be any questions regarding this decision, please contact Special Program Examiner Marianne Seidel, 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.

George C. Elliott
Director, Technology Center 1600

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Paper No. 7

MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 300
MCLEAN VA 22102

MAIL

MAR 0 5 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re application of:
HARRISON
Application No. 10/354,705
Filed: January 29, 2003
For: **SYSTEM AND PROCESS FOR INCORPORATING, RETRIEVING AND DISPLAYING AN ENHANCED FLASH MOVIE**

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney/agent of record filed on October 28, 2003.

A grantable request to withdraw as attorney/agent of record must:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

Petitioner has satisfied the requirements for successfully requesting withdrawal. Accordingly, the request is **GRANTED.**

All of the attorneys/agents of record listed in the Request are withdrawn.

All future correspondence will continue to be directed to the above address until such a time as a request for change of address is filed. A courtesy copy of this decision is being sent to petitioner at the address provided below.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4701

cc: John T. Kennedy
DORSEY & WHITNEY, LLP
INTELLECTUAL PROPERTY DEPARTMENT
370 SEVENTEENTH STREET, SUITE 4700
DENVER, CO 80202-5647

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MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 300
MCLEAN VA 22102

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DEC 0 8 2006

OFFICE OF PETITIONS

In re Application of :

HARRINGTON :
Application No. 10/354,705 : DECISION ON PETITION
Filed: January 29, 2003 : TO WITHDRAW
Attorney Docket No. 11153US.02 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 29, 2006.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, "application is being transferred to another attorney", does not meet any 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 the undersigned at 571-272- 7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **NIXON PEABODY LLP**
401 9TH STREET NW, SUITE 900
WASHINGTON, DC 20004

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MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD, SUITE 400
MCLEAN VA 22102

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OFFICE OF PETITIONS

In re Application of
HARRINGTON, Jeffrey M.
Application No. 10/354,705
Filed: January 29, 2003
Attorney Docket No. **11153US.02**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 17, 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 Adam Keser 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: **JEFFREY M. HARRINGTON**
442 6TH STREET
BROOKLN, NY 11215

cc: **MARC KAUFMAN, ESQ.**
NIXON PEABODY LLP
401 9TH STREET NW, SUITE 900
WASHINGTON, DC 20004

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DAVIDSON, DAVIDSON & KAPPEL, LLC
485 SEVENTH AVENUE, 14TH FLOOR
NEW YORK, NY 10018

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OFFICE OF PETITIONS

In re Application of :
Pierre-Alain Cotte :
Application No.: 10/354,709 : ON PETITION
Filed: January 29, 2003 :
Attorney Docket No: **5007.1008** :

This is a decision on the petition under 37 CFR 1.28(c), filed August 23, 2004.

The petition is **GRANTED.**

The record reflects that the filing fee and claims fees for the above-cited application were paid at the small entity rate. Petitioner later discovered that the inventive entity did not qualify as a small entity and filed the instant petition, accordingly.

Petitioner has remitted the deficient amount of $553.00.

Pursuant to 37 CFR 1.28(d), the payment of the deficient amount will be treated under 37 CFR 1.27(g)(2) as a notification of a loss of entitlement to small entity status.

The application file will be directed to Technology Center 2100 for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

ROBERT M. CASE
2205 POTTERS CREEK ROAD
CANYON LAKE, TX 78133-3210

In re Application of
Robert M. Case
Application No. 10/354,728
Filed: January 30, 2003
Attorney Docket No. None

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed May 2, 2005.

The petition is GRANTED.

The application became abandoned for failure to pay the issue fee on or before October 12, 2004. A Notice of Abandonment was mailed on October 21, 2004. Receipt is acknowledged of the issue/publication fee on May 2, 2005.

This application is being referred to Publishing Division.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing at Publishing Division should be directed to (703) 305-8283.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Paper No. 4

CARY S. KAPPEL
DAVIDSON DAVIDSON & KAPPEL LLC
485 SEVENTH AVENUE, 14TH FLOOR
NEW YORK, NY 10018

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FEB 27 2004

OFFICE OF PETITIONS

In re Application of :
Cotte Pierre-Alain :
Application No. 10/354,735 : NOTICE
Filed: January 29, 2003 :
Attorney Docket No. 5007.1010

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 2153.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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PYLE & PIONTEK
ATTN: THOMAS R. VIGIL
221 N LASALLE STREET
ROOM 2036
CHICAGO, IL 60601

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AUG 06 2008

In re Application of	:	
Vaidya et al.	:	
Application No. 10/354,748	:	DECISION ON PETITION
Filed: January 30, 2003	:	
Attorney Docket No. VAV-40006	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 19, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed April 30, 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 application became abandoned on July 1, 2003.

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 (almost five 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 June 30, 2003. That party, in turn must explain what effort(s) was made to further reply to the outstanding Office action and, further, why no reply was filed. If no effort was made to further reply, then that party must explain why the delay in this application does not result from a deliberate course of action (or inaction). Likewise, as Mr. Rajesh K. Tiwari 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 Mr. Tiwari. 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. Tiwari and whoever else was involved with this application at the time of abandonment. Statements are required from any and all persons such as Mr.Tiwari and all other responsible person(s) having firsthand knowledge of the circumstances surrounding the lack of a reply to the Notice of Missing Parts of Nonprovisional Application, mailed April 30, 2003. 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, almost five 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 such as Mr. Tiwari and other 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

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PYLE & PIONTEK, LLC
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CHICAGO IL 60601

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OFFICE OF PETITIONS

In re Application of	:	
Vaidya et al.	:	
Application No. 10/354,748	:	DECISION ON PETITION
Filed: January 30, 2003	:	
Attorney Docket No. VAV-40006	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed February 6, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed April 30, 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 application became abandoned on July 1, 2003. A Notice of Abandonment was mailed February 9, 2004.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Oath/Declaration and $65.00 surcharge fee (previously submitted on February 6, 2008), (2) the petition fee of $770.00 (previously submitted on February 6, 2008), and (3) a proper statement of unintentional delay.

Petitioner has submitted an unnecessary petition fee of $810.00. However, petitioner has also requested and paid for a three-month extension of time of $555.00 in order to respond to the dismissed petition of August 6, 2008, when in fact a four-month extension of time fee of $865.00 is required. The difference of $310.00 will be subtracted from the $810.00 unnecessary petition fee, leaving $500.00 to be refunded to petitioner's credit card in due course.

Telephone inquiries concerning this decision should be directed to Joan Olszewski at (571) 272-7751.

This application is being referred to the Office of Patent Application Processing for further processing in accordance with this decision on petition.

/Liana Walsh/
Liana Walsh
Petitioner Examiner
Office of Petitions

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OFFICE OF THE DIRECTOR
TC 3600

Timothy T. Patula
Patula & Associates
14th Floor
116 S. Michigan Ave.
Chicago, IL 60603

In re application of
George Grbic
Application No. 10/354,755
Filed: January 30, 2003
For: FLEXIBLE CARRIER APPARATUS AND METHOD FOR TRACKING THE SAME

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on July 26, 2004 under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. Besides giving due notice to his or her client and delivering to the client all papers and property to which the client is entitled as specified under 37 CFR 10.40, approval of such a request requires that the following conditions be met:

A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;

B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and

C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

The request to withdraw as attorney in the above-identified application is not approved because the request does not comply with Item A).

As to item A), it is not clear who is signing the request or that the person signing the request has been given power in this application. It is noted that no name has been provided above the signature, and that the signature cannot be clearly read. Additionally, the registration number provided "30,971" does not correspond to any attorneys given power in the original Declaration/Power of Attorney. Therefore, the person signing the request does not match the list of attorneys given power in the original Declaration/Power of Attorney and cannot withdraw on behalf of all the attorneys/agents of record.

Randolph A. Reese
Special Programs Examiner
Patent Technology Center 3600
(703) 308-2121

RAR/vdb: 9/9/04

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JUN 0 9 2008

ANDREW F. SAYKO, JR.
1014 CROOKED OAKS LANE
SEABROOK ISLAND, SC 29455-6502

In re Application of :
Matthew C. PELHAM, SR. ET AL :
Application No. 10/354,760 : ON PETITION
Filed: January 30, 2003 :
Attorney Docket No. 60047.0002USU1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 21, 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 15, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). No extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is September 16, 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 $405, and the submission required by 37 CFR 1.114; (2) the petition fee of $770; and (3) the required statement of unintentional delay have been received.

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 Diane Goodwyn at (571) 272-6735.

This application is being referred to Technology Center AU 1794 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.

Thurman Page
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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HONEYWELL/SHIMOKAJI
PATENT SERVICES
101 Columbia Road
P.O.Box 2245
Morristown, NJ 07962-2245

Mail Date: 04/20/2010

Applicant	: Mingzhou Xu	: DECISION ON REQUEST FOR
Patent Number	: 7576508	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/354,782	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/30/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1799** 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

In re Application of :

BLACKE, James N. et al. :
Application No. 10/354,798 : DECISION ON PETITION
Filed: November 30, 2001 : TO WITHDRAW
Attorney Docket No. **NXT-20051-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 March 14, 2007.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, attorney & firm has been appointed by client, 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: **STEVEN M. DUBOIS**
307 LAFAYETTE BLVD.
SUITE 301
FREDERICKSBURG, VA 22401

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/354,812	01/28/2003	Ananda G. Lugade	020031-002810US	8619

20350 7590 01/15/2004

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

EXAMINER	
ART UNIT	PAPER NUMBER
1626	

DATE MAILED: 01/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

In re Application of	:
Ananda G. Lugade et al	:
Serial No.: 10/354,812	: PETITION TO MAKE SPECIAL
Filed: January 28, 2003	:
Attorney Docket No.: 020031-00281	:

This is in response to applicants' petition filed July 9, 2003, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, VIII. Therefor the petition is **GRANTED**.

The following condition applies to the grant of this petition: If, upon examination, it is determined that a restriction requirement is necessary because of multiple inventions being claimed, applicant will be required to make an election without traverse of a single invention to be prosecuted. Failure to make an election without traverse will void the special status accorded in this decision.

The application will be forwarded the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, Washington, DC 20231, or by telephone at (703) 308-3824 or by facsimile transmission at (703) 305-7230

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

UNITED STATES
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Commissioner for Patents
Washington, DC 20231
www.uspto.gov

6/30/03

Terry L Wiles Esq
Popovich and Wiles P A
IDS Center Suite 1902
80 South 8th Street
Minneapolis MN 55402

Dear Applicant:

The Box PGPub replacement drawings for application number 10/354,831 received on 5/14/03 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
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Commissioner for Patents
Washington, DC 20231
www.uspto.gov

Signature of Reviewer, Office of Initial Patent Examination

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PYLE & PIONTEK
ATTN: THOMAS R. VIGIL
221 N LASALLE STREET , ROOM 2036
ROOM 2036
CHICAGO IL 60601

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OFFICE OF PETITIONS

In re Application of :
Rajesh K. TIWARI et al. :
Application No. 10/354,860 : DECISION ON PETITION
Filed: January 30, 2003 :
Attorney Docket No. :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 19, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed May 01, 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 application became abandoned on July 02, 2003.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) (1) and (3).

The notice required a properly signed oath or declaration in compliance with 37 CFR 1.63. However, the declarations submitted with petition are not acceptable in that each inventor has signed a separate declaration that does not list the other inventors. A proper declaration would identify each of the inventors so that it would be clear that the signing inventor knew that there were other inventors and their respective identities. See 37 CFR 1.63.

The showing of record raises questions as to whether the abandonment of this application was unintentional within the meaning of 35 USC 41(a)(7) and CFR 1.137(b).

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 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, 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 4 years 6 months) in resuming prosecution, there is a question whether the entire delay was unintentional. Petitioner should note that the issue is not whether some of the delay was unintentional by any party; rather, the issue is whether the entire delay has been shown to the satisfaction of the Director to be unintentional.

The question under 37 CFR 1.137(b) for period (1) is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unintentional. Accordingly, any renewed petition must clearly identify the party having the right to reply to avoid abandonment on July 2, 2003. That party, in turn must explain what effort(s) was made to further reply to the outstanding Office action and further, why no reply was filed. If no effort was made to further reply, then that party must explain why the delay in this application does not result from a deliberate course of action (or inaction). As the application was filed *pro se*, the inventors should explain why this application became abandoned while it was under their control and what efforts the inventors made to further reply and with whom this matter was discussed. A Notice of Abandonment was mailed February 9, 2004. Was the Notice of Abandonment received in the application file? When did the inventors become aware of the abandonment of this application?

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), involved with this application at the time of abandonment. Statements are required from 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 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), which clearly stated clear that any protracted delay (here, over 4 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 the responsible person(s) having firsthand knowledge of the circumstances surrounding the protracted delay, after the abandonment date, in seeking revival. Furthermore as the record shows that petitioner took some action (obtaining a file copy) with respect to this even then long abandoned application, an explanation from petitioner as to when and the manner in which petitioner became aware of the abandonment of this case, and why the long delay in seeking revival should be excused, independently of delay in replying which caused abandonment in the first instance.

Further correspondence with respect to this matter should be addressed as follows:

By Mail:
Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand:
U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at (571) 272-2783.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
Rajesh K. TIWARI et al. :
Application No. 10/354,860 : DECISION ON PETITION
Filed: January 30, 2003 :
Attorney Docket No. **VAV-40004** :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed December 03, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed May 01, 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 application became abandoned on July 02, 2003.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a new declaration, (2) the petition fee of $750, and (3) a proper statement of unintentional delay. Accordingly, the reply to the Notice to File Missing Parts of Nonprovisional Application of May 01, 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 Patent Application Processing.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/354,860	01/30/2003	Rajesh K. Tiwari	

CONFIRMATION NO. 9472

Rajesh K. Tiwari
363 ST. PAUL BLVD.
CAROL STREAM, IL 60188

ABANDONMENT/TERMINATION LETTER

OC000000011861216

Date Mailed: 02/09/2004

NOTICE OF ABANDONMENT UNDER 37 CFR 1.53 (f) OR (g)

The above-identified application is abandoned for failure to timely or properly reply to the Notice to File Missing Parts (Notice) mailed on 05/01/2003.

- No reply was received.

A petition to the Commissioner under 37 CFR 1.137 may be filed requesting that the application be revived.

Under 37 CFR 1.137(a), a petition requesting the application be revived on the grounds of **UNAVOIDABLE DELAY** must be filed promptly after the applicant becomes aware of the abandonment and such petition must be accompanied by: (1) an adequate showing of the cause of unavoidable delay; (2) the required reply to the above-identified Notice; (3) the petition fee set forth in 37 CFR 1.17(l); and (4) a terminal disclaimer if required by 37 CFR 1.137(d).

Under 37 CFR 1.137(b), a petition requesting the application be revived on the grounds of **UNINTENTIONAL DELAY** must be filed promptly after applicant becomes aware of the abandonment and such petition must be accompanied by: (1) a statement that the entire delay was unintentional; (2) the required reply to the above-identified Notice; (3) the petition fee set forth in 37 CFR 1.17(m); and (4) a terminal disclaimer if required by 37 CFR 1.137(d).

Any questions concerning petitions to revive should be directed to the "Office of Petitions" at (703) 305-9282.Petitions should be mailed to: Mail Stop Petitions, Commissioner for Patents, P.O. Box 1450, Alexandria VA 22313-1450.

A copy of this notice MUST be returned with the reply.

Customer Service Center
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PART 3 - OFFICE COPY

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David E. Bruhn
DORSEY & WHITNEY LLP
Suite 1500
50 South Sixth Street
Minneapolis, MN 55402-1498

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JAN 07 2008

OFFICE OF PETITIONS

In re Application of :
Fritz KIRCHHOFER :
Application No. 10/354,882 :
Filed: January 30, 2003 :
Attorney Docket No. 14577 :

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed October 11, 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, November 08, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on February 09, 2007.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee $1,540; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of November 08, 2006 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

The application file is being referred to Technology Center AU 3767 for appropriate action on the concurrently filed amendment.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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OFFICE OF PETITIONS

DARBY & DARBY P.C.
P.O. BOX 5257
NEW YORK NY 10150-5257

In re Application of :
Morten, Rassool, Claeys, and Baker : DECISION ACCORDING STATUS
Application No. 10/354,920 : UNDER 37 CFR 1.47(a)
Filed: 29 January, 2003 :
Atty Docket No. 50040.13USU1 :

This is in response to the petition filed under 37 CFR 1.47(a) on 9 October, 2003.

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventor has refused to join in the filing of the above-identified application after having been sent a copy of the application papers. Specifically, petitioners have established, via the statement of registered patent attorney Jamie L. Wiegand, that a copy of the application was sent to the non-signing inventor, Tom E. Claeys on several occasions. However, the non-signing inventor failed to sign and return the declaration naming him as a joint inventors along with Glenn A. Morten, Reza P. Rassool, and Brian Andrew Baker.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the Declaration. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the application will be forwarded 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

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dlw 11-03

Tom E. Claeys
8630 NE 20th Street
Clyde Hill, WA 98004

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NOV 25 2003

OFFICE OF PETITIONS

In re Application of
Morten et al.
Application No. 10/354,920
Filed: 29 January, 2003
For: METHOD AND SYSTEM FOR END TO END SECURING OF CONTENT FOR VIDEO ON DEMAND

Dear Mr. Claeys:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at 703/308-6918. Requests for information regarding your application should be directed to the File Information Unit at 703/308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 703/308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

DARBY & DARBY P.C.
P.O. BOX 5257
NEW YORK NY 10150-5257

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OFFICE OF PETITIONS

In re Application of
Glenn A. Morten, et al.
Application No. 10/354,920
Filed: January 29, 2003
Attorney Docket No. 08223/1200326-US1

: DECISION DISMISSING PETITION
: UNDER 37 CFR 1.313(a)

This is a decision on the petition under 37 CFR 1.313(a), filed October 29, 2007, requesting withdrawal of the above-identified application from issue.

The petition is **dismissed** as moot for the reasons stated below.

A review of the file record discloses that a Notice of Allowance and Fee(s) Due was mailed on October 15, 2007, with the issue fee being due on or before January 15, 2008. The petition states that the issue fee in this case has not been paid.

The filing of a petition under 37 CFR 1.313(a) is unnecessary, since the mere filing of an RCE and submission will effectively withdraw an application from issue prior to payment of the issue fee. In view thereof, the petition to withdraw from issue is dismissed as involving a moot issue. *Note* MPEP §§ 706.07(h)(IX) and 1308.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Inquiries concerning this decision may be directed to the undersigned at (571) 272-3204.

The matter is being referred to Technology Center AU 2137 for appropriate processing of the RCE filed October 29, 2007, and for consideration of the concurrently filed Information Disclosure Statement (IDS).

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: DARBY & DARBY P.C.
P.O. BOX 770
CHURCH STREET STATION
NEW YORK NY 10008-0770

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JUN 30 2006

JONES DAY LLP
2882 SAND HILL ROAD
SUITE 240
MENLO PARK CA 94025

In re Application of	:
Jiao et al.	:
Serial No.: 10/354,922	: PETITION
Filed: January 29, 2003	:
Attorney Docket No.: 018781-008810US	:

This is in reply to the petition under 37 CFR 1.183 to consider Patent reference 3,405,177 in order to clarify the instant record, filed May 17, 2006.

BACKROUND

A Notice of Allowance was mailed in this application on October 17, 2005. On January 13, 2006 an Information Disclosure Statement (IDS) was filed for consideration by the examiner. On February 14, 2006, a response was mailed to applicants indicating consideration of the reference by the examiner. On May 17, 2006, this petition was filed asking for consideration of a reference that was crossed out on an IDS previously filed on November 29, 2004.

DISCUSSION

Applicants are asking for clarification of the record and for consideration of a Patent reference that was listed on a Form 1449 with an incorrect Patent number due to a typographical error. Specifically, the Patent number 3,495,177 appears where the Patent number 3,405,177 should have been listed. Applicants are asking that since this reference does not present new issues and would not involve an undue burden for the examiner to consider, applicants request entry into the record. Applicants' argument asking for clarification of the record and for consideration of the Patent reference is persuasive.

DECISION

In view of the above reason, the petition is **GRANTED**.

A copy of Form 892 is attached.

Should there be any questions with respect to this action, 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 Office general facsimile number, 571-273-8300.

Bruce Kisliuk
Director, Technology Center 1600

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OFFICE OF PETITIONS

FISH & RICHARDSON P.C.
12390 EL CAMINO REAL
SAN DIEGO, CA 92130

In re Application of :

David Castiel :
Application No. 10/354,933 : DECISION ON PETITION
Filed: January 29, 2003 : TO WITHDRAW
Attorney Docket No. 4574-2-24-A : 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 9, 2005.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Scott C. Harris, along with all of the other attorneys associated with the firm of Fish & Richardson has been revoked by the assignee of the patent application on April 24 2005, and resubmitted on December 12, 2005. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant/assignee or the current attorneys of record.

This application is being referred to Technology Center AU 2618 for the mailing of the Final Rejection on June 12, 2006.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272- 3208.

Karen Creasy
Petitions Examiner
Office of Petitions

Conferee:

cc:
RUBINSTEIN LAW GROUP, PROFESSIONAL CORPORATION
DAVID BOGART DORT
1700 DIAGONAL ROAD, SUITE 300
ALEXANDRIA, VA 22314

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OFFICE OF PETITIONS

BLAKELY SOKOLOFF TAYLOR & ZAFMAN
1279 OAKMEAD PARKWAY
SUNNYVALE CA 94085-4040

In re Application of :

RAZ, Uri et al. :
Application No. 10/354,947 : DECISION ON PETITION
Filed: January 30, 2003 : TO WITHDRAW
Attorney Docket No. **6599P003XC** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 22, 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 Marina Portnova. Marina Portnova has been withdrawn as attorneys or agent of record; all other attorneys remain 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 an outstanding Office action mailed November 01, 2007 that requires a reply from the 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: **URI RAZ**
36-02 HILLSIDE TERRACE
FAIRLAWN, NJ 07410

cc: **JORDAN M. BECKER, ESQ.**
PERKINS COIE
101 JEFFERSON DRIVE
MENLO PARK, CA 94025-1114

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Meyertons, Hood, Kivlin, Kowert, Goetzel/Symantec
P.O. Box 398
Austin, TX 78767-0398

Mail Date: 04/20/2010

Applicant	: Uri Raz	: DECISION ON REQUEST FOR
Patent Number	: 7606924	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/354,947	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/30/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1031** 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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Ronald Kimble
Sughrue Mion PLLC
2100 Pennsylvania Avenue, NW
Washington, DC 20037-3113

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Technology Center 2100

In re Application of: Herz et al.
Application No. 10/354,966
Attorney Docket No. Q73456
Filed: 01/31/2003
For: DEVICE FOR POSITION-DEPENDENT REPRESENTATION OF INFORMATION

DECISION ON PETITION FOR SUPERVISORY REVIEW UNDER *37 CFR §1.181*

This is in response to the petition filed on December 10, 2004, under 37 CFR §1.181, requesting supervisory review of the examiner's decision of withdrawal, cancellation and non-allowance of claims 14-16 and 18, mailed in the Office action of October 12, 2004.

A petition under 37 CFR §1.181 must include: (1) a statement of facts involved and (2) the point or points to be reviewed and the action requested. Note, the mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. Any petition under this part not filed within two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely. In addition, when a petition is taken from an action or requirement of an examiner in the ex parte prosecution of an application, ... it may be required that there have been a proper request for reconsideration (§ 1.111) and a repeated action by the examiner.

The petition filed on December 10, 2004 includes elements (1) and (2) above and was filed within two months of the action (Notice of Allowance) from which relief is requested.

The petition is **DISMISSED.**

RECENT PROSECUTION HISTORY

(1) On February 10, 2004, an Office action restricting claims 1-10 (Group I) and claims 11-13 (Group II), under 35 U.S.C. 121 with supporting reasons for the restriction, was mailed.

(2) On March 10, 2004, a response including an election (Group I, claims 1-10) **without traverse** was filed. In addition, dependent claims 14-17 were added.

(3) On April 15, 2004, a non-final Office action, treating claims 1-10 and withdrawing claims 11-17, was mailed. Note, in the Office action, newly added claims 14-17 were indicated

to be drawn to the non-elected invention of Group II and held to be withdrawn from consideration.

(4) On July 15, 2004, a response to the non-final Office action, including the amendment of various claims, the addition of claim 18 and the cancellation of claims 7-8 and 17, was filed.

(5) On October 12, 2004, an examiner's amendment and Notice of allowance, was mailed. The examiner's amendment indicated that authorization "to cancel claims 11-18" (presumably claims 11-16 and 18 as pending) was provided. The Notice of Allowance indicated claims 1-6 and 9-10 allowable.

(6) On December 10, 2004, the instant petition under 37 CFR §1.181 was filed.

(7) On January 12, 2005, the issue fee was paid.

RELIEF REQUESTED

The instant petition filed under 37 CFR 1.181 requests the following relief: examination and/or rejoinder and allowance of claims 14-16 and 18 in the above identified application.

ANALYSIS

The relevant sections of the M.P.E.P. are set forth below:

37 CFR § 1.111 Reply by applicant or patent owner to a non-final Office action.
(a)(1) If the Office action after the first examination (§ 1.104) is adverse in any respect, the applicant or patent owner, if he or she persists in his or her application for a patent or reexamination proceeding, must reply and request reconsideration or further examination, with or without amendment.

M.P.E.P. § 803 sets forth in part:
Under the statute an application may properly be required to be restricted to one of two or more claimed inventions only if they are able to support separate patents and they are either independent (MPEP § 806.04 - § 806.04(i)) or distinct (MPEP § 806.05 - § 806.05(i)).
Examiners must provide reasons and/or examples to support conclusions, but need not cite documents to support the restriction requirement in most cases.

In addition, M.P.E.P. §808 sets forth in part:
Election is the designation of the particular one of two or more disclosed inventions that will be prosecuted in the application.
A reply should be made to each point raised by the examiner's action, and may include a ***traverse or compliance.*** A traverse of a requirement to restrict is a statement of the reasons upon which the applicant relies for his or her conclusion that the requirement is in error.

Further, M.P.E.P. 818.02(c) sets forth:
Where applicant is claiming two or more inventions (which may be species or various types of related inventions) and as a result of action on the claims, ***he or she cancels the claims to one or more of such inventions, leaving claims to one invention, and such claims are acted upon by the examiner, the claimed invention thus acted upon is elected.***

Finally, M.P.E.P. § 818.03(c) and § 821.02, "Must Traverse To Preserve Right of Petition", set forth:
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 Commissioner to review the requirement. Petition may be deferred until after final action on or allowance of claims to the invention elected, but must be filed not later than appeal. ***A petition will not be considered if reconsideration of the requirement was not requested*** (see § 1.181).
If applicant does not distinctly and specifically point out supposed errors in the restriction requirement, the election should be treated as an election without traverse and be so indicated to the applicant.

Where the initial requirement is not traversed, if adhered to, appropriate action should be given on the elected claims. ***Under these circumstances, when the application is otherwise ready for issue, the claims to the nonelected invention,*** including nonelected species, ***may be canceled by an examiner's amendment, and the application passed to issue [emphasis added].***

Petitioner sets forth the following points: first, that claims 14-17 were never part of the (original) restriction requirement and are dependent on elected claims; restriction of claims 14-17 was improper as no reason why the newly presented claims were independent/distinct; and finally, claims 14-16 and 18 are subject to rejoinder under M.P.E.P. § 821.04.

Initially, it is noted from the prosecution record that applicant did not properly request reconsideration (of the requirement for restriction) of the instant application (§ 1.111), as is required. In addition, since applicant failed to traverse the requirement for restriction at the time of election (see response of March 10, 2004) and further failed to timely provide a statement of the reasons upon which the applicant relies for his or her conclusion that the initial requirement (by the Examiner) was in error, the instant petition is not considered to be properly and timely filed (see 37 CFR § 1.181, wherein it is proper to first request reconsideration). However, and finally, the prosecution record indicates that applicant acquiesced to the withdrawal of the claims (11-16 and 18) by authorizing the cancellation of these claims in the telephone interview on July 21, 2004 (made of record in the Examiner's amendment of October 12, 2004).

CONCLUSION

Accordingly, the ***petition*** is **DISMISSED**, for the reasons stated above.

The application is being forwarded to the Office of Patent Publications for further processing of the file.

Any inquiries related to this decision may be directed to Specials Program Examiner Brian Johnson at (571) 272-3595.

2/4/05

Brian L. Johnson, SPRE
Technology Center 2100
Computer Architecture, Software, and Information Security

BLJ: 2/4/05

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REED SMITH LLP
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FALLS CHURCH, VA 22042

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FEB 27 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Kazue Kudo, et al. :
Application No. 10/354,989 :
Filed: January 31, 2003 :
Attorney Docket No.: HITA.0339 :

This is a decision on the petition, filed February 17, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 31, 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 2652 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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DLA PIPER RUDNICK GRAY CARY US, LLP
2000 UNIVERSITY AVENUE
E. PALO ALTO, CA 94303-2248

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JAN 19 2006

OFFICE OF PETITIONS

In re Application of :
Robert J. Goldman :
Application No. 10/355,017 : ON PETITION
Filed: January 31, 2003 :
Attorney Docket No.: 12637.00

This is a decision on the petition filed December 9, 2005 to withdraw the holding of abandonment, under 37 CFR 1.181, in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513.

The petition under 37 CFR 1.181 is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181," or, as explained in more detail below, "...under 37 CFR 1.137(a)" or (b). This is not a final agency decision.

Petitioner argues that the non-Final Office Action mailed February 23, 2005 was mailed to the previously appointed attorneys of record who had withdrawn as counsel for the inventor. Petitioners argue that the withdrawal of attorney filed December 10, 2004 was not processed by the USPTO and thus the non-Final Office Action was incorrectly addressed and not received by the inventor.

Petitioners are advised that pursuant to 37 CFR 1.36(b), an attorney may file a request to withdraw as attorney however, the withdrawal is not effective until such time as it is approved by the Director. Once the withdrawal is approved both the applicant or patent owner and the registered patent attorney or patent agent will receive notification.[1] In this instance, the registered patent attorney assumed that the request had been approved and thus closed the files prior to the approval and notification. The registered patent attorney had a responsibility to either file a response to the non-Final Office Action or to forward it to the applicant. Incidentally, the non-Final Office Action mailed February 23, 2005 was not returned as undeliverable.

---

[1]A Notice Regarding Change of Power of Attorney was mailed to Dorsey & Whitney on April 12, 2005.

A review of the record indicates no irregularity in the mailing of the 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 at the address of record.

This application became properly abandoned May 24, 2005 for failure to file a timely reply to the non-Final Office Action mailed February 23, 2005 and therefore the Notice of Abandonment mailed August 26, 2005 was appropriate.

As to the mailing of the Notice of Acceptance of Power of Attorney, mailed April 12, 2005, to the applicant, the USPTO will take responsibility for the address being incorrectly entered but that mailing had little to do with the mailing of the non-Final Office Action and the failure of a timely response by the applicant or the attorney of record at the time the office communication was mailed and is therefore not the reason the application was abandoned.

In view thereof, the holding of abandonment will not be withdrawn.

ALTERNATIVE VENUES

Petitioner may wish to consider filing a renewed petition under 37 CFR 1.137(a)[2] or 37 CFR 1.137(b),[3] which now provides that where the delay in reply was unintentional, a petition

---

[2]A grantable petition under 37 CFR 1.137(a) must be accompanied by:

(1) the required reply, unless previously filed; In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(l);

(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

[3]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);

may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b).

The filing of a petition under the unintentional standard cannot be intentionally delayed and therefore should be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

(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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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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DLA PIPER RUDNICK GRAY CARY US, LLP
2000 UNIVERSITY AVENUE
E. PALO ALTO, CA 94303-2248

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APR 05 2006

OFFICE OF PETITIONS

In re Application of :
Robert J. Goldman :
Application No. 10/355,017 : ON PETITION
Filed: January 31, 2003 :
Attorney Docket No.: 12637.00 :

This is a decision on the petition filed March 21, 2006, under 37 CFR 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 for failure to timely reply to the non-Final Office Action mailed February 23, 2005. A shortened statutory period of three months was set for replying to the non-Final Office Action. No extensions of time having been requested, this application became abandoned May 24, 2005. Accordingly, a Notice of Abandonment was mailed on August 26, 2005.

This matter is being referred to Technology Center 3763 for appropriate action on the amendment filed March 21, 2006.

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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[1]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

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7/3/07

DLA PIPER RUDNICK GRAY CARY US, LLP
2000 UNIVERSITY AVENUE
E. PALO ALTO, CA 94303-2248

In re Application of:
GOLDMAN, ROBERT J.
Serial No.: 10/355,017
Filed: January 31, 2003
Docket: 12637.00
Title: MULTI-FUNCTION CATHETER AND USER THEREOF

Withdrawal of Holding of Abandonment
37 C.F.R. 1.81

This is a decision on the petition to withdraw the Holding of Abandonment.

The petition is **GRANTED.**

The application was held abandoned for failure to timely respond to the Office Action mailed on October 11, 2006, which set a three month shortened period for reply. Notice of abandonment was mailed on April 19, 2007.

Petitioner asserts that a response to the Office Action mailed on October 11, 2006 was timely filed. The response was due by January 11, 2007, but was extended to April 11, 2007 with the payment of three-month extension fees. The petitioner has supplied a copy of check for the extension fees as well as a signed mailing certificate dated April 11, 2007 and stamped postcard showing USPTO receipt on April 13, 2007.

As petitioner has provided convincing evidence that the reply to the Office Action of October 11, 2006 was timely filed on April 11, 2007, and as such there is no abandonment in fact. Examiner is directed to accept the copy of the amendment filed with the petition.

In view of the above, the Holding of Abandonment mailed April 19, 2007 is in error and is hereby vacated. This application is being forwarded to the Supervisory Patent Examiner in Art Unit 3763 for appropriate action. Any inquiry regarding this decision should be directed to Henry Yuen, Special Programs Examiner at (571) 272-4856.

Summary: ***Holding of Abandonment Withdrawn.***

Karen M. Young

Karen M. Young, Director
Technology Center 3700

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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POSZ & BETHARDS, PLC
11250 ROGER BACON DRIVE
SUITE 10
RESTON, VA 20190

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FEB 10 2005

OFFICE OF PETITIONS

In re Patent of :
Noda et al. :
Patent No. 6,836,038 :
Issued: December 28, 2004 : ON PETITION
For: MOTOR HAVING GROUNDING :
STRUCTURE FOR REDUCING RADIO :
NOISE :

This is a decision on the Petition, filed December 2, 2004, under 37 CFR 1.183, for waiver of 37 CFR 3.81(a), to correct the name of the assignee in the above-identified patent.

The Petition is **granted**.

The application is being forwarded to the Certificate of Corrections Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney/Advisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
10/355038	01/31/03	HOLBERT, VICTOR P.	A-7768

INTERNATIONAL PAPE COMPANY
6285TRI-RIDGE BOULEVARD
LOVELAND OH 45140

EXAMINER	
CHEN, VIVIAN	
ART UNIT	PAPER NUMBER
1773	

DATE MAILED:

NOTICE OF RESCINDED ABANDONMENT

☐ **In response to your communication filed** _____

☒ **Through inadvertence, a Notice of Abandonment was mailed in the above-identified application. The Notice of Abandonment is hereby rescinded.**

For **Manager, Publications Division**
Office of Patent Publication
571-272-4200

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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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

Mail Date: 04/20/2010

Applicant	: Adrian Zakrzewski	: DECISION ON REQUEST FOR
Patent Number	: 7583594	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/355,053	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/31/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1226** 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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Alexandria, VA 22313-1450
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MEREK, BLACKMON & VOORHEES
673 SOUTH WASHINGTON STREET
ALEXANDRIA VA 22314

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JAN 25 2010

In re Patent No. 6942795 :
Issue Date: 09/13/2005 :
Application No. 10/355082 : ON PETITION
Filed: 01/31/2003 :
Attorney Docket No. PA-212 :

This is a decision on the petition under 37 CFR 1.378(c), filed November 6, 2009, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on September 13, 2009 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 maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3231.

The patent file is being forwarded to Files Repository.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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Oren Fuerst
215 E 95th Street 26J
New York, NY 10128

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MAY 27 2005

OFFICE OF PETITIONS

In re Application of :
Oren Fuerst, et. al. :
Application No. 10/355,091 : ON PETITION
Filed: January 31, 2003 :
Attorney Docket No. N/A :

This is a decision on the petition under 37 CFR 1.137(b), filed November 22, 2004, to revive the above-identified application.

In response to the Notice to File Corrected Application Papers mailed April 9, 2003, petitioner submits $685 for the petition to revive fee, a replacement abstract, replacement drawing of Figure 1, replacement pages 1 and 2 of the specification, the statement of unintentional delay as required by 37 CFR 1.137(b), and a Power of Attorney.

The Power of Attorney filed November 22, 2004, will not be made of record since it is signed by one of two inventors (See 37 CFR 1.33). However, in accordance with 37 CFR 1.34(a), the signature, of Eugene Lieberstein, 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. Additionally, 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.

Since petitioner has met the requirements to revive this application, pursuant to 37 CFR 1.137(b), the petition is **GRANTED**.

The application file is being referred to the Office of Initial Patent Examination 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
Office of the Deputy Commissioner
for Patent Examination Policy

cc: ANDERSON, KILL & OLICK, P.C.
1251 AVENUE OF THE AMERICAS
NEW YORK, NY 10020-1182

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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CISLO & THOMAS, LLP
233 WILSHIRE BLVD
SUITE 900
SANTA MONICA CA 90401-1211

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MAR 0 2 2006

OFFICE OF PETITIONS

In re Application of :
Viscount et al. :
Application No. 10/355,093 : DECISION ON PETITION
Filed: January 31, 2003 :
Attorney Docket No. 03-11680 :

This is a decision on the petition under 37 CFR 1.181, filed September 13, 2005, to withdraw the holding of abandonment for the above-identified application. The petition was recently forwarded to the Office of Petitions. The Office sincerely apologizes for any inconvenience to petitioner.

On January 19, 2005, the Office mailed a Notice of Non-Compliant Amendment, which set an extendable period of one-month or thirty days, which was longer, to reply. In the apparent absence of a timely filed response, the Office mailed a Notice of Abandonment on August 23, 2005.

In the present petition, petitioner asserts that he filed a timely response. In support of his assertion, petitioner submits a copy of the reply entitled, "Further Preliminary Amendment and Interview Summary," including a certificate of mailing dated January 25, 2005.

Pursuant to 37 CFR 1.8:

> (b) In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:
>
> (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

(c) The Office may require additional evidence to determine if the correspondence was timely filed.

After reviewing the record and the papers submitted on petition, the response is considered timely filed in the USPTO on January 25, 2005. Accordingly, the petition is **granted**. The Notice of Abandonment is hereby withdrawn. The application is restored to pending status in view of the fact that a response was timely submitted on January 25, 2005.

The matter is being referred to Technology Center Art Unit 3679.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3211. All other questions regarding the status of the application or the examination process 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

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P.O. Box 1450
Alexandria, VA 22313-1450
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CHARLES N.J. RUGGIERO
OHLANDT, GREELEY, RUGGIERO & PERLE, L.L.P.
10TH FLOOR
ONE LANDMARK SQUARE
STAMFORD CT 06901-2682

MAILED

JUL 19 2010

OFFICE OF PETITIONS

In re Application :
Marc J. Neuberger et al. :
Application No. 10/355,126 : DECISION ON APPLICATION
Filed: January 31, 2003 : FOR PATENT TERM ADJUSTMENT
Attorney Docket No. :
0005800USU/4247

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. 1 . 705 (B) filed June 8, 2010. Applicant requests that the determination of patent term adjustment be corrected from 885 to 1158 days, in part on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within three years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within three years. See 37 CFR 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under 37 CFR 1.702(a)(4) or applicant delay under 37 CFR 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the 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).

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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Brad Vincent
151 Laurel Ave
Smiths Grove, KY 42171

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AUG 28 2006

OFFICE OF PETITIONS

In re Application of	:	DECISION ON PETITION
Brad L. Vincent	:	
Application No. 10/355,130	:	
Filed: January 31, 2003	:	
Title of Invention:	:	
PAINTBALL LOADING CONTAINER	:	

This is a decision on the Petition to Revive the Application based upon unintentional abandonment, filed October 25, 2005. The delay in treating this petition is regretted.

The petition is **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance and Issue Fee Due and Notice of Allowability, mailed June 7, 2004. The Notices set a non-extendable statutory period for reply of three (3) months. Accordingly, the application became abandoned on September 8, 2004. A Notice of Abandonment was mailed November 22, 2004.

With the instant petition Applicant has submitted the issue fee.

This application is being forwarded to Publishing Division for processing into a patent.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. Box 8910
Reston, VA 20195

Mail Date: 04/21/2010

Applicant	: Kin Nang Lau	: DECISION ON REQUEST FOR
Patent Number	: 7583637	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/355,140	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/31/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1428** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 4

RADER FISHMAN & GRAUER PLLC
LION BUILDING
1233 20TH STREET N.W., SUITE 501
WASHINGTON, DC 20036

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JUL 1 4 2003

OFFICE OF PETITIONS

In re Application of
Yokoi et al.
Application No. 10/355,141
Filed: January 31, 2003
Attorney Docket No.
MIY-0001/DIV2

DECISION ON PETITION

This is a decision on the petition filed May 14, 2003, requesting withdrawal of a Notice of Omitted Item(s).

The application was deposited on January 31, 2003. On March 14, 2003, the Office of Initial Patent Examination mailed a Notice of Omitted Items in a Nonprovisional Application (hereinafter "Notice"), stating that the application had been accorded a filing date of January 31, 2003, and advising applicants, inter alia, that pages 163, and 166-168 of the specification appeared to be missing.

In response applicant submits the instant petition wherein Applicant avers that the specification did in fact contain pages 163 and 166-168. Applicant contends that the PCT Amendment omitted pages 163 and 166-168, but the application as filed was not missing pages 163, and 166-168. In support of this contention, Applicant submits the application putatively as-filed, along with a copy of the PCT Amendment.

Upon review of the record, 167 pages of specification (pages 1-162, 163-165, 170 and 170a), including claims, are located among the application papers. However, pages 163, and 166-168 of the specification have not been located in the Official file. The Patent and Trademark Office (Office) file is the official record of the papers filed in this application. A review of the official file reveals that no copy of a date stamped filing receipt indicating that pages 163, and 166-168 of specification, claims and abstract were filed.

The best evidence of what was filed on January 31, 2003, is applicant's postcard receipt. "If a receipt of any item (e.g., paper or fee) filed in the USPTO is desired, it may be obtained by enclosing with the paper a self-addressed postcard specifically identifying the item. The USPTO will stamp the receipt date on the postcard and place it in the outgoing mail. A postcard receipt which itemizes and properly identifies the items which are being filed serves as prima facie evidence of receipt in the USPTO of all items listed thereon on the date stamped thereon by the USPTO.." MPEP § 503.

It is noted that this petition is dismissed without prejudice. Petitioner should submit a copy of a return receipt postcard evincing receipt by the Office of pages 163, and 166-168 of the specification.

Any request for reconsideration should be filed within **TWO MONTHS** of the 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.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

By facsimile: (703) 308-6916
Attn: Office of Petitions

By hand: Office of Petitions
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA 22202

Finally, a review of the application reveals that no abstract is contained in the application. This application is being forwarded to the Office of Initial Patent Examination for remailing of the Notice of Omitted Item(s) in a Nonprovisional Application to include notice that an abstract appeared to have been omitted from the application, and for further processing with a filing date of January 31, 2003, using pages 1-162, 163-165, 170 and 170a of specification filed on that date.

Telephone inquiries specific to this decision should be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
Yokoi et al. :
Application No. 10/355,141 : DECISION ON PETITION
Filed: January 31, 2003 :
Attorney Docket No. :
MIY-0001/DIV2 :

This is a decision on the Request for Reconsideration of Decision on Petition, filed August 15, 2003, requesting withdrawal of a Notice of Omitted Item(s).

The application was deposited on January 31, 2003. On March 14, 2003, the Office of Initial Patent Examination mailed a Notice of Omitted Items in a Nonprovisional Application (hereinafter "Notice"), stating that the application had been accorded a filing date of January 31, 2003, and advising applicants, inter alia, that pages 163, and 166-168 of the specification appeared to be missing.

In response, on May 14, 2003, applicant filed a petition wherein Applicant alleged that the specification did in fact contain pages 163 and 166-168. Applicant argued that the PCT Amendment omitted pages 163 and 166-168, but the application as filed was not missing pages 163, and 166-168. In support of this contention, Applicant filed the application putatively as-filed, along with a copy of the PCT Amendment.

Upon review of the record, 167 pages of specification (pages 1-162, 163-165, 170 and 170a), including claims, were located among the application papers as filed. However, pages 163, and 166-168 of the specification were not located in the Official file. Applicant was informed that the Patent and Trademark Office (Office) file is the official record of the papers filed in this application, and a review of the official file revealed that no copy of a date stamped filing receipt indicating that pages 163, and 166-168 of specification, claims and abstract were filed.

Applicant was further advised that the best evidence of what was filed on January 31, 2003, is applicant's postcard receipt.

Applicant files the instant Request for Reconsideration and avers that the postcard receipt provides evidence that the specification included pages 163 and 166 - 168. Applicant points to two sets of initials that "indicate that all of the application documents have been reviewed by such parties. It is not possible that that Applicants filed the application documents without the 171-page specification." *Petition* at p.2.Applicant acknowledges that "the postcard receipt [] does not indicate the number of pages of the specification that was filed...." *Id.*

An application transmittal is, at best, only evidence of what was intended to be filed, not evidence of what was actually received or filed in the USPTO.

Applicant is again advised that The best evidence of what was filed on January 31, 2003, is applicant's postcard receipt. In this case, applicant's postcard receipt fails to demonstrate that pages 163 and 166 - 168 of the specification were filed with the application. "A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all items listed thereon by the PTO." MPEP § 503.

The MPEP provides that

If a new application is being filed, all parts of the application being submitted should be separately listed on the post card, e.g. the number of pages of specification (including written description, claims and abstract), number of claims, number of sheets of drawings, number of pages of oath/declaration, number of pages of cover sheet (provisional application).

The postcard receipt will not serve as prima facie evidence of receipt of any item which is not adequately itemized on the postcard. For example, merely listing on the postcard 'a complete application' or 'patent application' will not serve as a proper receipt for each of the required components of an application (e.g., specification (including claims), drawings (if necessary), oath or declaration and the application filing fee[] or missing portions (e.g., pages, sheets of drawings) of an application if one of the components or portions of a component is found to be missing by the USPTO. Each separate component should be specifically and properly itemized on the postcard.

MPEP § 503

If pages 163 and 166 - 168 of the specification were not present on the January 31, 2003 filing date, they cannot be considered a part of the original disclosure of the application. Petitioner has failed to satisfactorily demonstrate that pages 163 and 166 - 168 were present in the Office on January 31, 2003. Therefore, the application cannot be accorded the January 31, 2003 filing date with pages 163 and 166 - 168, as a part of the original disclosure. The issue of new matter is one appropriately addressed by the primary examiner during prosecution of the application after the filing date of the application has been determined.

If petitioners desire that pages 163 and 166 - 168 be included in the specification, the appropriate procedure is to submit the pages in the form of an amendment for consideration by the primary examiner.

The application is being returned to OIPE for further processing with a filing date of January 31, 2003, using the pages of specification filed on that date.

Any request for reconsideration should be filed within **TWO MONTHS** of the 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.

After a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Commissioner. Therefore, it is extremely important that petitioner supply **any** and **all** relevant information and documentation with his request for reconsideration. The Commissioner's decision will be based solely on the administrative record in existence.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

By facsimile: (703) 308-6916
Attn: Office of Petitions

By hand: Office of Petitions
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA 22202

Telephone inquiries specific to this decision should be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:	Attorney Docket No.: MIY-0001/DIV 2
Masayuki YOKOI, et al.	Examiner: Not Yet Assigned
Application No.: 10/355,141	Art Unit: 1743
Filed: January 31, 2003	*Confirmation No.: 5030*

For: BLOOD TEST CONTAINER AND BLOOD TEST METHOD

REQUEST FOR RECONSIDERATION OF DECISION ON PETITION

HAND-DELIVERED

Office of Petitions
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA 22202
Attention: Derek L. Woods, Esq.

RECEIVED
AUG 15 2003
OFFICE OF PETITIONS

Sir:

In response to the Decision on Petition (Paper No. 4) mailed July 14, 2003, Applicants respectfully request reconsideration of dismissal of petition. Based upon a telephone conference with Mr. Woods by Applicants' representative on or about August 8, 2003 and other information, it appears that the United States Patent and Trademark Office is mistakenly considering an Article 11 PCT Amendment, that was filed with the application on January 31, 2003, as the specification itself.

Applicants set forth the chronology of events as follows:

On January 31, 2003, Applicants through their representatives filed with the United States Patent and Trademark Office the following application documents:

1. A 171-page specification with claims and an abstract and including 34 sheets of drawing figures (a complete copy of which is filed herewith as Exhibit 1);

2. A Preliminary Amendment (a complete copy of which is filed herewith as Exhibit 2);

3. An Article 11 PCT Amendment (a complete copy of which is filed herewith as Exhibit 3);

4. A Utility Patent Application transmittal (a complete copy of which is filed herewith as Exhibit 4); and

5. Other miscellaneous application documents.

All of the above-listed application documents are itemized on a postcard receipt (a copy of which is filed herewith as Exhibit 5) which has been date-stamped by the United States Patent and Trademark Office on January 31, 2003. Although the postcard receipt (Exhibit 5) does not indicate the number of pages of the specification that was filed, the Utility Patent Application Transmittal (Exhibit 4) indicates, under item 3, that the specification contains 171 total pages and, under item 4, that the application includes 34 total sheets of drawings.

Please note that the postcard receipt (Exhibit 5) includes the initials DKB and PT. The initials DKB represent David K. Benson, the attorney of record, and the initials PT represent Paula Talarek, the law firm office manager with over 20 years experience in patent prosecution. Such initials indicate that all of the application documents have been reviewed by such parties. It is not possible that Applicants filed the application documents without the 171-page specification. It is firm policy that at least two sets of initials are marked on the postcard receipt to assure that the listed application documents are filed with the United States Patent and Trademark Office.

On March 14, 2003, the United States Patent and Trademark Office mailed to Applicants' representatives a filing receipt and a Notice of Omitted Items in a Non-provisional Application (Exhibit 6). The Notice of Omitted the Items indicates that ***pages 163 and 166-168 of the specification (description and claims)*** *appear to have been omitted from the application*. In a Request to Withdraw Erroneous Notice of Omitted Items in a Non-provisional Application (Exhibit 7), Applicants stated that the indicated pages 163,166-168 were pages intentionally omitted from the Article 11 PCT Amendment and that the filed specification does indeed contain the alleged omitted pages as shown in Exhibit 1.

Based on the above, it appears that the United States Patent and Trademark Office considers the Article 11 PCT Amendment as the specification because the Article 11 PCT Amendment, in fact, did not include pages 163 and 166-168. Based upon Applicants' information and belief, the United States Patent and Trademark Office has apparently misplaced the 171-page specification with claims and abstract.

In view of the foregoing, reconsideration of the Decision on Petition and withdrawal of the dismissal without prejudice of petition are respectfully requested.

Furthermore, it is respectfully requested that the United States Patent and Trademark Office consider only the 171-page specification as the filed specification, not the Article 11 PCT Amendment.

If necessary, the United States Patent and Trademark Office may accept Exhibit 1 as a substitute specification. Applicants' representatives represent that Exhibit 1 is a photocopy of the originally-filed specification and that no new matter had been introduced therein.

Should the Petitions Attorney believe anything further is desirable to rectify this unfortunate situation, the Petitions Attorney is invited to contact Applicants' representative at the telephone number listed below.

Should additional fees be necessary in connection with the filing of this paper or if a Petition for Extension of Time is required for timely acceptance of the same, the

Commissioner is hereby authorized to charge Deposit Account No. 18-0013 for any such fees and Applicant(s) hereby petition for such extension of time.

Respectfully submitted,

Date: August 15, 2003

By: Carl Schaukowitch Reg. No 29,211 for
David T. Nikaido
Reg. No. 22,663

Robert S. Green
Reg. No. 41,800

RADER, FISHMAN & GRAUER PLLC
1233 20th Street, N.W. Suite 501
Washington, D.C. 20036
Tel: (202) 955-3750
Fax: (202) 955-3751
Customer No. 23353

Enclosure(s):
Exhibit 1 - Specification, Claims and Abstract (171 pages) and Drawings (34 sheets))
Exhibit 2 - Preliminary Amendment
Exhibit 3 - Article 11 PCT Amendment
Exhibit 4 - Utility Patent Application transmittal
Exhibit 5 - Date Stamped Postcard
Exhibit 6 - Notice of Omitted Items in a Non-provisional Application
Exhibit 7 - Request to Withdraw Erroneous Notice of Omitted Items in a Non-provisional Application

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03CO-0410
8/21/03

INITIAL SCREENING OF INCOMING PAPERS CHECKLIST

Reviewer: A Chase Date: 8-18-03

APPLICATION NO. 10/355141

01355141

1. PETITION TYPE CODE

_____R137(a) Petition-------- -501
_____R137(a) Petition ---------509
(Issue Fee/Dwgs)
_____R137(b) Petition----------502
_____R137(b) Petition----------510
(Issue Fee/Dwgs)
_____R137(f) Petition----------536
_____R182 Petition-------------519
_____R183 Petition-------------503
_____R378(b) Petition----------532
_____R378(c) Petition----------533
_____R377 Petition-------------521
_____R3.81(b) Petition---------523
_____R181 Petition-------------515
_____R181 Petition-------------504

Renewed

PETITION TYPE CODE

_____R28c Petition-------------321/320
_____R47 Petition---------------313
_____R53(e) Petition------------408
_____R53 (R62 filing date)-----410
_____R10 Petition---------------411
_____Lost Application-----------412
_____R78(a)(3) Petition---------535
_____R78(a)(6) Petition---------535
_____R55(c) Petition------------535
_____R314 Petition--------------508
_____R55(a) Petition------------507
_____Pet. W/D Abn---------------525
_____R705(b) PTA-Bef iss------550
_____R705(d) PTA-Aft iss-------551
_____R705(c)PTA-SpiteDueCare-552
_____Other_____

2. LIST PAPERS FILED WITH PETITIONS

_____PreAmdt/Amdt
_____Request CofC
_____Reply/Arguments
_____Election
_____Notice of Appeal
_____Brief (3)
_____Reply Brief
_____Declaration R132
_____CPA
_____RCE
_____IDS
_____129(a) Submsn
_____Issue Fee
_____Drawings
_____Rule 312 Amdt
_____Ext Time (___)
_____Associate POA
_____Terminal Disclaimer
_____Change of Address
_____Revocation/Poa
_____Priority Documents
_____Oath/Decl. & POA
_____Rescind Non-Pub Req.
_____Statement 3.73(b)

Other Papers Return file to Derek Woods.

3. Is paper a petition to withdraw holding of abandonment: _____yes_____no
If so, send paper and/or file to appropriate location ***(Note: remove any flag set first)***:

a. Nonreceipt of action from TC or assertion that reply was timely filed:
Send paper to TC_____
b. Nonreceipt of Missing Parts Notice or assertion that reply was timely filed:
Send paper to DIRECTOR -OIPE - -CP2-7D25 (PH: 308-0910)
c: Assertion of timely payment of issue fee and/or submission of drawings:
Send petition to Office of Publications: ATTN: Tom Hawkins
d. Other_____

4. Other:_____
If not handled in Office of Petitions, send paper to appropriate location.

5. Is petition accompanied by assignment papers, fee address, or other paper which needs to be sent to another location? _____ yes _____ no If so, make copy of assignment papers, fee address, or other paper; mail original to proper location and place copy in file with an indication that the original paper(s) has been forwarded to the appropriate location (Assignment Branch; Maintenance Fee Division, etc.)

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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RADER FISHMAN & GRAUER PLLC
LION BUILDING
1233 20TH STREET N.W., SUITE 501
WASHINGTON DC 20036

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JAN 23 2008

OFFICE OF PETITIONS

In re Application of :
Masayuki Yokoi et al :
Application No. 10/355,141 : DECISION GRANTING PETITION
Filed: January 31, 2003 : UNDER 37 CFR 1.137(b)
Attorney Docket No. MIY-0001/DIV2 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 10, 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 Appeal Brief; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply of July 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 Technology Center AU 1743 to consider the Appeal Brief received July 10, 2007.

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

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FEB 17 2006
OFFICE OF PETITIONS

In re Application of :
Chang-Ho Jung :
Application No. 10/355,157 : ON PETITION
Filed: January 31, 2003 :
Attorney Docket No. 0630-1631P :

This is a decision on the petition, filed February 9, 2006, 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 December 21, 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 2683 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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 : February 17, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

COPY MAILED
FEB 17 2006
OFFICE OF PETITIONS

SUBJECT : Withdrawal from Issue of

Applicant(s) :Chang-Ho Jung
Application No. :10/355,157
Filed :January 31, 2003

The above-identified application has been assigned Patent No. 7,010,309 and an issue date of March 7, 2006.

It is hereby directed that this application be withdrawn from issue at the request of the applicant.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of March 7, 2006:

> "All reference to Patent No. March 7, 2006 to Chang-Ho Jung of Korea for APPARATUS AND METHOD FOR PROCESSING PAGING FOR WCDMA TERMINAL appearing in the Official Gazette of March 7, 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
Tamara Greene, ST-8C13

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E I DU PONT DE NEMOURS AND COMPANY
LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1128
4417 LANCASTER PIKE
WILMINGTON DE 19805

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MAR 0 3 2006

OFFICE OF PETITIONS

In re Application of :
Feiring, et al. :
Application No.: 10/355,202 : DECISION GRANTING PETITION
Filed: January 30, 2003 :
Attorney Docket No.: CL1354USCIP :
FOR: FLUOROPOLYMER LOW REFLECTING LAYERS FOR PLASTIC LENSES AND DEVICES

This is a decision on the petition under 37 CFR 1.137(b), filed on November 14, 2005 to revive the above-identified application.

The above-identified application became abandoned for failure to properly and timely reply to the March 14, 2005 final Office action which set an extendable three (3) month period for reply. Applicants submitted a one month extension of time and an amendment after final on July 14, 2005. The amendment after final failed to place this application in *prima facie* condition for allowance, as was explained in the August 1, 2005 advisory action. Applicants filed another amendment after final on August 25, 2005, which failed to place the application in *prima facie* condition for allowance, as was explained in the September 9, 2005 advisory action.[1] Therefore, this application became abandoned on September 15, 2005. A Notice of Abandonment was mailed on September 27, 2005.

[1] Regarding extension of time fees, petitioners were charged an additional one month extension of time when the August 25, 2005 amendment after final was filed. However, extensions of time run from the due date for reply to the Office action. Petitioners had already purchased a one month extension of time for the due date to run until July 14, 2005. For the August 25, 2005 amendment after final to be timely filed, an additional two months were required. The $780.00 balance due ($1,020.00 - $240.00) will be charged to deposit account no. 04-1928.

Applicants have submitted a RCE and required fee and amendment in reply to the March 14, 2005 final Office action, an acceptable statement of the unintentional nature of the delay in responding to the March 14, 2005 final Office action, and the petition fee.

The petition is **GRANTED**.

After the mailing of this decision the application will be forwarded to Technology Center AU 1773 for consideration of the RCE and amendment filed on November 14, 2005.

Telephone inquiries pertaining to this decision may be directed to the undersigned at (571) 272-3230.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FOLEY & LARDNER LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON WI 53701-1497

MAILED

APR 15 2010

OFFICE OF PETITIONS

In re Application of :
Mela, et al. :
Application No. 10/355,234 : ON APPLICATION FOR
Filed: January 31, 2003 : PATENT TERM ADJUSTMENT
Atty Docket No.088245-0116 :

This is in response to the "REQUEST FOR RECONSIDERATION PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705" filed December 28, 2009. Applicants submits that the patent term adjustment to be indicated on the patent is one thousand, three hundred and sixty (1,360) days, not nine hundred and fourteen (914) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request 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].

It is noted that any period of adjustment will be entered in light of 35 U.S.C. 154(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY, which provides that:

> Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including –

---

[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

(i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

It is further noted that a Request for Continued Examination (RCE) was filed in this application on February 11, 2008.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
www.uspto.gov

FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

MAILED

MAR 23 2010

OFFICE OF PETITIONS

In re Application of	:	DECISION ON
Fukishima et al.	:	REQUEST FOR
Patent Number: 7,531,643	:	RECONSIDERATION OF
Issue Date: 05/12/2009	:	PATENT TERM ADJUSTMENT
Application No. 10/355236	:	and
Filing or 371(c) Date: 01/31/2003	:	NOTICE OF INTENT TO ISSUE
Attorney Docket Number: 065678-0109	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on May 27, 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 four hundred thirty-seven (437) 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 four hundred thirty-seven (437) days is **GRANTED to the extent indicated herein**.

As to the "B" delay, the period is 188 days, not 332 days. This period begins 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), and ends on the issue date of the patent, or 332 days, but not including the number of days 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, and ending on the date of mailing of the notice of allowance under 35 U.S.C. 151, or 144 days. See, 35 U.S.C. 154(b)(1)(C)(iii). Thus, the "B" delay period is 188 (332 days – 144 days), not 332 days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **FOUR HUNDRED THIRTY-SEVEN (437) DAYS**.

Telephone inquiries specific to this matter should be directed to Attorney Derek Woods, at (571) 272-3232.

Anthony Knight
Supervisor
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,531,643 B2

DATED : **May 12, 2009**

INVENTOR(S) : Fukushima 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 249 days.

Delete the phrase "by 249 days" and insert – by 437 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

MAILED

JUL 22 2010

OFFICE OF PETITIONS

In re Application of	:	DECISION ON REQUEST
Fukishima et al.	:	FOR RECONSIDERATION
Patent Number: 7,531,643	:	OF DECISION ON
Issue Date: 05/12/2009	:	PATENT TERM ADJUSTMENT
Application No. 10/355236	:	and
Filing or 371(c) Date: 01/31/2003	:	NOTICE OF INTENT TO ISSUE
Attorney Docket Number: 065678-0109	:	CERTIFICATE OF CORRECTION

This is a decision on the request for reconsideration of petition filed on April 22, 2010, which is being treated as a renewed 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 four hundred ninety-two (492) 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 four hundred ninety-two (492) days is **GRANTED to the extent indicated herein.**

Petitioner argues that the reduction in connection with the filing of an Information Disclosure Statement ("IDS") pursuant to 37 CFR 1.704(c)(8) is not proper. Petitioner provides that the IDS filed November 18, 2008 was a submission filed with a Request for Continued Examination ("RCE"), and not a reply to any previous action.

As to the "B" delay, Petitioner avers that the 143 days reduction between the filing of a Notice of Appeal on August 7, 2006, and the filing of a RCE on December 29, 2006 under 35 U.S.C. 154(b)(1)(C)(iii) is improper.

Petitioner also provides that a reduction of 114 days pursuant to 37 CFR 1.704(c)(8) is properly accorded to Petitioner in connection with the IDS filed November 26, 2006[1].

A review of the record confirms that the IDS filed November 18, 2008 was a submission filed with a Request for Continued Examination ("RCE"). A review of the application history further confirms that the IDS was not otherwise filed under circumstances that constitute a failure to

[1] Office records confirm that the IDS was filed on November 29, 2006.

engage in reasonable efforts to conclude prosecution. The period of reduction of 26 days entered for the IDS is not warranted and is being removed.

As to the reduction between the filing of a Notice of Appeal on August 7, 2006, and the filing of a RCE on December 29, 2006, the reduction of 144 days is properly assessed pursuant to 35 U.S.C. 154(b)(1)(B)(ii) and 37 CFR 1.704(b)(4). The period of reduction begins 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, and ending on the date of mailing of the notice of allowance under 35 U.S.C. 151, or 144 days. See, 35 U.S.C. 154(b)(1)(B)(ii).

Regarding the reduction of 114 days pursuant to 37 CFR 1.704(c)(8) in connection with the IDS filed November 29, 2006, the period of reduction overlaps with the reduction pursuant to 37 CFR 1.704(b)(4).

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[2].

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **FOUR HUNDRED SIXTY-THREE (463) DAYS.**

Telephone inquiries specific to this matter should be directed to Attorney Derek Woods, at (571) 272-3232.

/Derek L. Woods/

Derek L. Woods
Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

---

[2] Petitioner is advised that the fee is a prerequisite prior to treatment on the merits of any application for patent term adjustment. 35 U.S.C. 41(d) authorizes the Office to establish a fee to recover the estimated average cost of treating applications for patent term adjustment (as well as a fee for treating a request for reinstatement of patent term adjustment), and the cost of treating an application for patent term adjustment is about the same regardless of whether the Office's initial determination of patent term adjustment indicated in the notice of allowance is correct. See, Changes to Implement Patent Term Adjustment Under Twenty-Year Patent Term; Final Rule, 65 Fed. Reg. 56,366, 53,374 (September 18, 2000), 1239 Off. Gaz. Pat. Office 14 (October 3, 2000).

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,531,643 B2

DATED : **May 12, 2009**

INVENTOR(S) : Fukushima 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 437 days.

Delete the phrase "by 437 days" and insert – by 463 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No.

H.C. PARK & ASSOCIATES, PLC
8500 LEESBURG PIKE
SUITE 7500
VIENNA, VA 22182

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SEP 2 0 2006
OFFICE OF PETITIONS

In re Application of :
KIM et al. : DECISION ON PETITION
Application No. 10/355,253 :
Filed: January 31, 2003 :
Attorney Docket No. 07660001AA:

This is a decision on the "PETITION TO WITHDRAW HOLDING OF ABANDONMENT" filed April 26, 2006.

The petition under § 1.181 is **GRANTED**.

By Notice of Abandonment mailed April 10, 2006, applicant was advised that the application was abandoned for failure to timely respond to the Notice of Allowability mailed November 23, 2005. The Notice set a three-month nonextendable period for filing corrected drawings. No drawings having been filed, the application became abandoned.

In response, applicant filed the instant petition, asserting that the holding of abandonment should be withdrawn on the basis that the Examiner incorrectly checked the box requesting submission of corrected drawings on the Notice of Allowability. Further, applicant submitted evidence in the form of a supplemental Notice of Allowability and Interview Summary, both completed prior to the expiration of the period for reply, stating indicated that the drawings were acceptable.

The facts and circumstances of the abandonment of this application have been considered, and it has been determined that withdrawal of the holding of abandonment is warranted.

Petitioner is reminded that absent an of the record (Officially mailed not courtesy faxed) action from the Office withdrawing a requirement, a future petition may not be granted to withdraw a holding of abandonment.

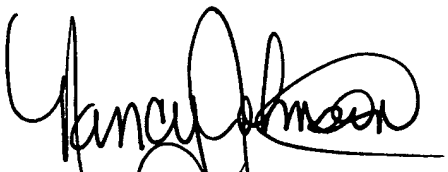
Accordingly, the Notice of Abandonment mailed April 10, 2006 is hereby **VACATED**, and the holding of abandonment is hereby **WITHDRAWN**.

The petition under § 1.181 is **GRANTED**.

No fee is required on petition under § 1.181.

Technology Center AU 3623 has been advised of this decision. The application file is being forwarded to the Technology Center's technical support staff to withdraw the holding of abandonment and for the examiner, as appropriately determined in the Technology Center, to enter the supplemental Notice of Allowability and the Interview Summary of February 15, 2006. Thereafter, the application should be forwarded to the Office of Patent Publication.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.



Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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Paper No. 4

HOGAN & HARTSON LLP
IP GROUP, COLUMBIA SQUARE
555 THIRTEENTH STREET, N.W.
WASHINGTON DC 20004

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DEC 04 2003

OFFICE OF PETITIONS

In re Application of	:	
Ridgeway, Patterson, and Kushner	:	DECISION REFUSING STATUS
Application No. 10/355,256	:	UNDER 37 CFR 1.47(a)
Filed: 31 January, 2003	:	
Atty Docket No. 82001-0353	:	

This is in response to the petition filed under 37 CFR 1.47(a) on 17 July, 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 31 January, 2003, without an executed oath or declaration.

Accordingly, on 17 March, 2003, Initial Patent Examination Division mailed a Notice to File Missing Parts of Application, requiring an executed oath or declaration, the statutory basic filing fee, additional claim fee(s) and a surcharge for their late filing. A two (2)-month period for reply was set.

In response, on 17 July, 2003, petitioners supplied a declaration naming Lindsay Ridgeway, Mark Patterson, and Mark Kushner as joint inventors by joints Patterson and Kushner on behalf of themselves and joint inventor Ridgeway. Additionally, the present petition, the statutory basic filing fee, additional claim fee(s), and two (2) month extension of time were filed.

Petitioners state that a copy of the application was sent to the non-signing inventor, but that the non-signing inventor did not return an executed declaration.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or located, notwithstanding diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee;

(4) a surcharge of $130 or $65 (small entity) if the petition and/or declaration is not filed at the time of filing the application, and

(5) a statement of the last known address of the non-signing inventor.

The petition lacks item (2).

In regards to item (2), above, the declaration filed with the petition does not meet the requirements of 37 CFR 1.63 in that it does not list the mailing address and residence of the inventors. In situations where an inventor does not execute the oath or declaration and the inventor is not deceased, such as in an application filed under 37 CFR 1.47, the inventor's most recent home address must be given to enable the Office to communicate directly with the inventor as necessary.[1] The mailing address, residence address, if different than where the inventor customarily receives mail, and citizenship of the non-signing inventor must be provided on the oath or declaration. A new oath or declaration in compliance with 37 CFR 1.63 and 1.67, listing the residence, mailing address, and citizenship of all of the inventors and signed by the signing inventors on behalf of themselves and the non-signing inventors, must be provided with any renewed 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

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[1] See MPEP 605.03.

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 related to this decision should be directed to the undersigned at 703-308-6918.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 7

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FEB 17 2004

OFFICE OF PETITIONS

HOGAN & HARTSON LLP
IP GROUP, COLUMBIA SQUARE
555 THIRTEENTH STREET, N.W.
WASHINGTON DC 20004

In re Application of :
Ridgeway, Patterson, and Kushner : DECISION ACCORDING STATUS
Application No. 10/355,256 : UNDER 37 CFR 1.47(a)
Filed: 31 January, 2003 :
Atty Docket No. 82001-0353 :

This is in response to the renewed petition filed under 37 CFR 1.47(a) on 3 February, 2003.

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventor has refused to join in the filing of the above-identified application after having been sent a copy of the application papers. Specifically, petitioners have established, via the declaration of registered patent attorney Thomas W. Edman, that a copy of the application was sent to the non-signing inventor, Lindsay Ridgeway. However, the non-signing inventor returned a letter indicating that he would not sign the declaration listing him as a joint inventor along with Mark Patterson and Mark S. Kushner.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the Declaration. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the application will be forwarded to Technology Center 3600 for examination in due course.

Telephone inquiries related to this decision should be directed to the undersigned at 703-308-6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 4

GREENBERG-TRAURIG
1750 TYSONS BOULEVARD, 12TH FLOOR
MCLEAN VA 22102

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JUL 0 9 2003

OFFICE OF PETITIONS

In re Application of
Donald J. Rivera
Application No. 10/355,273
Filed: January 31, 2003
Attorney Docket No.
44689.011200
Title: MODULAR FUEL CONTROL APPARATUS

DECISION GRANTING PETITION

This is a decision on the petition under 37 CFR §1.1.53(b), filed May 9, 2003, requesting Figure twenty-four (24) be accorded a filing date of January 31, 2003 as part of the original disclosure.

On January 31, 2003, the above-identified application was filed. On March 12, 2003, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Omitted Item(s) in a Nonprovisional Application (Notice), advising applicant that Figure 24 appeared to have been omitted.

In response, on May 9, 2003, applicants filed the present petition. The petition is further accompanied by a copy of Figure 24, along with a copy of applicants' postcard receipt acknowledging receipt of thirty-three (33) Figures in the United States Patent and Trademark Office (Office) on January 31, 2003.

Applicants request that Figure twenty-four (24) be accorded a filing date of January 31, 2003.

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 January 31, 2003 included Figure twenty-four (24), and this Figure was subsequently misplaced in the Office.

Therefore, the application, including Figure twenty-four (24), was complete on filing and entitled to a filing date of January 31, 2003 as part of the original disclosure.

Accordingly, the petition is **GRANTED**.

The Notice mailed March 12, 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 January 31, 2003, using the original application papers filed on that date, as well as Figure twenty-four (24) submitted on May 9, 2003.

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

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Paper No. 8

LEYDIG, VOIT & MAYER
700 THIRTEENTH STREET, N.W.
SUITE 300
WASHINGTON, DC 20005-3960

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MAR 0 9 2004

OFFICE OF PETITIONS

In re Application of :
Tobita :
Application No. 10/355,286 : ON PETITION
Filed: January 31, 2003 :
Attorney Docket No. 402482 :

This decision concerns the April 23, 2003 "Petition for Grant of Filing Date and Request for Refund" which, in conjunction with the December 19, 2003 "Request for Official Filing Receipt" and the January 28, 2004 "Letter," is being properly treated as a petition under 37 CFR 1.53 that the above-referenced application be accorded a filing date of January 31, 2003.

The petition is **GRANTED**.

On January 31, 2003, the application was deposited in the USPTO.

On April 14, 2003, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Incomplete Nonprovisional Application" ("4/14/03 Notice"), stating that the application had not been accorded a filing date because it was deposited without drawings.

On April 23, 2003, the "Petition for Grant of Filing Date and Request for Refund" was filed, but was erroneously processed by the Office of Finance and denied in a July 9, 2003 letter. In response, on December 19, 2003, the "Request for Official Filing Receipt" was filed.

The petition asserts that, contrary to the statement made in the 4/14/03 Notice, 79 sheets of drawings were submitted with the remainder of the application on January 31, 2003. In support, the petition is accompanied by a copy of a postcard receipt,[1] indicating receipt in the USPTO on January 31, 2003 of, *inter alia*, 79 sheets of drawings for this application. The petition also encloses a copy of the drawings purportedly filed on January 31, 2003.

The USPTO file for this application does not contain any drawings. However, in view of the above, the Office concludes that 79 sheets of drawings had been filed on January 31, 2003, but were subsequently misplaced. The petition is thus granted.

The application is hereby granted the requested January 31, 2003 filing date.

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[1] Re-submitted with the 1/28/04 Letter.

No petition fee is owed, and none has been charged to counsel's deposit account.

In addition, the 4/14/03 Notice was mailed in error and is hereby vacated.

The application is being returned to OIPE for further processing with a filing date of January 31, 2003, **using the papers filed on that day and the 79 sheets of drawings submitted on April 23, 2003**; and for mailing of a filing receipt. Upon completion of pre-examination, the application 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

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Alexandria, VA 22313-1450
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Paper No. 080404

ELIZABETH STANLEY, ESQ.
LEBOEUF, LAMB, GREENE & MACRAE LLP
1875 CONNECTICUT AVE., NW, SUITE 1200
WASHINGTON, DC 20009

AUG 16 2004

In re Application of:
CHRISTOPHER LEE HALASZ
Serial No.: 10/355,321
Filed: January 31, 2003
Attorney Docket No.: **06588-00694A**

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 December 20, 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 Elizabeth Stanley, on behalf of herself and all the attorneys/agents of record. There is no outstanding Office action at this time.

The request is **APPROVED**.

There are no attorneys/agents of record at this time.

All future communications from the Office will be directed the assignee, at the below address, until otherwise notified by applicant.

Inquiries related to this decision should be directed to Lissi Marquis at (571) 272-1596.

Lissi Marquis, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: BISON SPORTSLIGHTS
15350 EAST HINGDALE DRIVE, #B
ENGLEWOOD, CO 80112

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. 080404

ELIZABETH STANLEY, ESQ.
LEBOEUF, LAMB, GREENE & MACRAE LLP
1875 CONNECTICUT AVE., NW, Suite 1200
Washington, DC 20009

AUG 16 2004

In re Application of:
CHRISTOPHER LEE HALASZ
Serial No.: 10/355,322
Filed: January 31, 2003
Attorney Docket No.: **06588-00695A**

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 December 20, 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 Elizabeth Stanley, on behalf of herself and all the attorneys/agents of record. There is no outstanding Office action at this time.

The request is **APPROVED**.

There are no attorneys/agents of record at this time.

All future communications from the Office will be directed the assignee, at the below address, until otherwise notified by applicant.

Inquiries related to this decision should be directed to Lissi Marquis at (571) 272-1596.

Lissi Marquis, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: BISON SPORTSLIGHTS
15350 EAST HINGDALE DRIVE, #B
ENGLEWOOD, CO 80112

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Agilent Technologies, Inc.
Legal Department, DL429
Intellectual Property Administration
P.O. Box 7599
Loveland CO 80537-0599

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OFFICE OF PETITIONS

In re Application of :
Tucker et al. :
Application No. 10/355,334 : DECISION ON PETITION
Filed: January 31, 2003 :
Attorney Docket No. 10020012-1 :

This is a decision on the petition under 37 CFR 1.181, filed on March 1, 2004, to withdraw the holding of abandonment. The petition was recently forwarded to the Office of Petitions. The Office apologizes for any inconvenience.

On March 19, 2003, the Office mailed a nonfinal Office action, which set a three-month shortened statutory period to reply. In the apparent absence of a timely response, the application became abandoned on May 20, 2003. On January 29, 2004, the Office mailed a Notice of Abandonment. On March 1, 2004, petitioner filed the present petition, a copy of the response, and a copy of a date-stamped postcard receipt acknowledging receipt of an executed declaration and power of attorney and an authorization to charge fees to the Deposit Account in the USPTO on April 10, 2003.[1]

In view of the *prima facie* evidence of the USPTO's timely receipt of the response, the Office mailed a "Withdrawal of Previously Sent Notice." The communication stated that the Notice of Abandonment mailed on January 29, 2004, was sent in error and was withdrawn.

As the Office has withdrawn the holding of abandonment *sua sponte*, the petition is **dismissed** as involving a moot issue.

Telephone inquiries specifically concerning this decision should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

[1] Section 503 of the MPEP states, "[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO."

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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APR 25 2005

OFFICE OF PETITIONS

In re Application of :
Hsu, et al. :
Application No. 10/355,340 :
Filed: January 31, 2003 :
Attorney Docket No. 087931-000000US :
For: OPTICAL APPARATUS AND METHOD
FOR MAKING THE SAME

DECISION
ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed January 27, 2005 (certificate of mailing date January 25, 2005), to revive the above-identified application.

This application became abandoned for failure to timely pay the issue fee and publication fee within three (3) months of the mailing of the October 20, 2004 Notice of Allowance and Fee(s) Due. Accordingly, this application became abandoned on January 21, 2005. The filing of the instant petition precedes the mailing of A Notice of Abandonment.

Applicant has submitted a proper reply in the form of the issue fee, the publication fee and the PTOL-85, an acceptable statement of the unintentional nature of the delay in responding to the October 20, 2004 Notice of Allowance and Fee(s) Due, and the petition fee.

The petition is **granted**.

This application is being forwarded to Publishing Division for processing into a patent.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3230.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

THOMAS W. ADAMS
RENNER OTTO BOISSELLE & SKLAR, LLP
NINETEENTH FLOOR
1621 EUCLID AVENUE
CLEVELAND, OH 44115

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FEB 17 2005

OFFICE OF PETITIONS

In re Application of :
Eiichi Uriu et al :
Application No. 10/355,368 : ON PETITION
Filed: January 31, 2003 :
Attorney Docket No. YAMAP0347USE

This is a decision on the petition, filed February 10, 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 7, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter will be forwarded to Technology Center AU 2832 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

Irvin Dingle
Petitions Examiner
Office of Petitions
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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MAIL

AUG 31 2007

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Milton S. Sales
Patent Legal Staff
Eastan kodak Company
343 State Street
Rochester Y 14650-2201

In re Application of
Kurt M. Sanger, et al.
Serial No.: 10/355372
Filed: January 31, 2003
For: METHOD OF ADJUSTING COLOR IN A COLOR PROOF

DECISION ON PETITION
ACCEPTANCE OF COLOR DRAWINGS

This is a decision on the petition pursuant to 37 C.F.R. § 1.84(a)(2), filed June 18, 2007, requesting acceptance of color drawings.

The petition requests that the color drawings/photographs, noted as Figures 1- 4, 6, 7 8 and 12 – 17 be accepted in lieu of black and white drawings.

A grantable petition under 37 C.F.R. §1.84(a)(2) must be accompanied by a fee set forth under 37 C.F.R. § 1.17(h), 3 (three) set of the color drawings in question, and the specification must contain, or be amended to contain, the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings:

"The file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee."

A review of the file record reveals that applicant has provided three sets of color drawings, filed simultaneously with the subject petition and the required amendment to the specification.

Petitioner has satisfied the requirements of 37 C.F.R. §1.84(a)(2). Accordingly, the petition is **GRANTED**.

The application file will be forwarded to the examiner for action in appropriate turn.

Krista Zele
Special Programs 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

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

COPY MAILED

MAY 30 2007

OFFICE OF PETITIONS

In re Patent No. 7,115,583 :
Issue Date: October 3, 2006 :
Application No. 10/355,388 : ON PETITION
Filed: January 31, 2003 :
Patentee(s): Thomas R. Porter, et. al. :

This is a decision on the request for a Certificate of Correction filed by facsimile transmission on December 21, 2006, which is being treated as a Request under 37 CFR 3.81[1], to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3226. Inquiries regarding the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

Andrea Smith
Petitions Examiner
Office of Petitions

[1] *See Official Gazette of June 22, 2004*

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

POULSEN ROSER PACIFIC, INC.
2550 OLD MILITARY ROAD
CENTRAL POINT, OR 97502

COPY MAILED

SEP 16 2005

OFFICE OF PETITIONS

In re Application of :
Raymond J. Evison, et al. :
Application No. 10/355,395 : ON PETITION
Filed: January 31, 2003 :
Attorney Docket No. :

This is a decision on the petition under 37 CFR 1.137(b), filed June 22, 2005, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "**Renewed Petition under 37 CFR 1.137(b).**" This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The Statement Under 37 CFR 3.73(b) submitted with the instant petition is not accepted because it does not list Mogens N. Olesen, Managing Director, as one who is authorized to act on behalf of the assignee. Specifically, § 3.73 states that:

> The submission establishing ownership must show that the person signing the submission is a person authorized to act on behalf of the assignee by: (i) Including a statement that the person signing the submission is authorized to act on behalf of the assignee; or (ii) Being signed by a person having apparent authority to sign on behalf of the assignee, *e.g.*, an officer of the assignee.

Furthermore, MPEP § 324 in pertinent part states:

> The submission may be signed by a person in the organization having apparent authority to sign on behalf of the organization. 37 CFR 3.73(b)(2)(ii). An officer (chief executive officer, president, vice-president, secretary, or treasurer) is presumed to have authority to sign on behalf of the organization. The signature of the chairman of the board of directors is acceptable, but not the signature of an individual director. Modifications of these basic titles are acceptable, such as

vice-president for sales, executive vice-president, assistant treasurer, vice-chairman of the board of directors. A person having a title (manager, director, administrator, general counsel) that does not clearly set forth that person as an officer of the assignee is not presumed to have authority to sign the submission on behalf of the assignee.

An acceptable Statement under 3.73(b) is required in order to revive the application.

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

cc: Ken Rynearson
620 South Front Street
Central Point, OR 97502

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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NOV 0 3 2006

OFFICE OF PETITIONS

POULSEN ROSER APS
620 S. FRONT STREET
CENTRAL POINT OR 97502

In re Application of :
Raymond J. EVISON et al. :
Application No. 10/355,395 : ON PETITION
Filed: January 31, 2003 :
Attorney Docket No. :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed November 4, 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 letter mailed November 5, 2003, which set a shortened statutory period for reply of one (1) month. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on December 6, 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 statement under 37 CFR 3.73(b); (2) the petition fee of $750; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the letter of November 5, 2003 is accepted as having been unintentionally delayed.

Had petitioner used the Statement under 37 CFR 3.73(b) form PTO/SB/96(09-04) (hereinafter "form") unmodified and as approved by OMB the issue as to whether or not petitioner was authorized to act on behalf of the assignee would not have arisen. Petitioner is cautioned to refrain from modifying official government forms and labeling them as the official form as only the unmodified form has been approved for usage by OMB. Attached is a copy of the form in use at the time of petitioner's signature. However, in view of the information supplied with the instant petition, the form submitted with the petition is being accepted.

Telephone inquiries concerning this decision should be directed to David A. Bucci at (571) 272-7099.

The application file is being referred to Technology Center AU 1661 for appropriate action on the amendment filed July 29, 2003 as the statement under 37 CFR 3.73(b) ratifies the signature on the aforementioned amendment.

David Bucci
Petitions Examiner
Office of Petitions

Encl: Form PTO/SB/96 Statement Under 37 CFR 3.73(b)

**>

PTO/SB/96 (09-04)
Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

STATEMENT UNDER 37 CFR 3.73(b)

Applicant/Patent Owner: _____

Application No./Patent No.: _____ Filed/Issue Date: _____

Entitled:

_____, a _____
(Name of Assignee) (Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

states that it is:

1. ☐ the assignee of the entire right, title, and interest; or

2. ☐ an assignee of less than the entire right, title and interest.
The extent (by percentage) of its ownership interest is _____%

in the patent application/patent identified above by virtue of either:

A. ☐ An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or for which a copy thereof is attached.

OR

B. ☐ A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as shown below:

1. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

2. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

3. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

☐ Additional documents in the chain of title are listed on a supplemental sheet.

☐ Copies of assignments or other documents in the chain of title are attached.
[NOTE: A separate copy (*i.e.*, a true copy of the original assignment document(s)) must be submitted to Assignment Division in accordance with 37 CFR Part 3, if the assignment is to be recorded in the records of the USPTO. See MPEP 302.08]

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

_____ _____
Signature Date

_____ _____
Printed or Typed Name Telephone Number

_____
Title

This collection of information is required by 37 CFR 3.73(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: **Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

<

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 5

KILPATRICK STOCKTON LLP
607 14TH STREET, N.W.
SUITE 900
WASHINGTON DC 20005

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JUL 1 1 2003

OFFICE OF PETITIONS

In re Application of
Mark Choey, Daniel Schutzer, and David Schreiber
Application No. 10/355,413
Filed: January 31, 2003
Attorney Docket No. C0464/270292
Title: METHOD AND SYSTEM OF TRANSACTION CARD FRAUD MITIGATION UTILIZING LOCATION BASED SERVICES

DECISION ON PETITION
UNDER 37 C.F.R. §1.137(f)

This is a decision on the petition filed on June 3, 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 country or an international application on February 6, 2003. However, the United States Patent and Trademark Office was unintentionally not notified of this filing within

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.

45 days subsequent to the filing of the subject application in a foreign country or under a multilateral international agreement.

On June 3, 2003, a Notice of Rescission of Nonpublication Request was filed with the Office, along with the instant petition.

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 an application under a multilateral international agreement, or in a foreign country 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 a filing in a foreign country or under a multilateral international agreement, 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 corrected filing receipt which sets forth the projected publication date of September 25, 2003 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
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Alexandria, VA 22313-1450
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Dallas TX 75214

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OFFICE OF PETITIONS

In re Application of
Sharaman et al.
Application No. 10/355,415
Filed: January 30, 2003
Attorney Docket No. CISCO-7180

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 30, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee on or before November 22, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed August 22, 2008. Accordingly, the date of abandonment of this application is November 23, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1510, (2) the petition fee of $1620; 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.

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 PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
www.uspto.go

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JUN 12 2003

OFFICE OF DIRECTOR
GROUP

Paper No. 04

Bert Vermeulen
c/o Waters Hauser & Co PC
4740 Table Mesa Drive
Boulder, CO 80305

In re Application of:
VANDERHORST, JOHN
Application No. 10/355,417
Filed: January 31, 2003
For: DETACHABLE
REMOTELY-ADJUSTABLE
EXTENSION MIRROR SYSTEM

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition under 37 C.F.R. § 1.102, filed May 01, 2003, to make the above-identified application special.

Petitioner requests that the above-identified application be made special under the accelerated examination procedure set forth in the Manual of Patent Examining Procedure (M.P.E.P.) § 708.02, Section IV: Applicant's Age.

A grantable petition to make special under 37 C.F.R. § 1.102 and in accordance with M.P.E.P. § 708.02, Section IV, must include evidence showing that the applicant is sixty-five (65) years of age or more. No fee is required for this petition.

The petition includes a Statement of age from the applicant as a showing that applicant is now sixty-five (65) years of age or more.

Accordingly, the petition is GRANTED.

The application is being forwarded to the examiner for expedited prosecution.

If the examiner can make this application special without prejudice to any possible interfering applications, and s/he should make a rigid search for such, s/he is authorized to do so for the next action. Should the application be rejected, the application will not be considered special for the subsequent action unless the applicant promptly makes a bona fide effort to place the application in condition for allowance, even if it is necessary to have an interview with the examiner to accomplish this purpose.

If the examiner finds any interfering application for the same subject matter, s/he should consider

such application simultaneously with this application and should state in the official letter of such application that s/he is taking it out of its turn because of possible interference.

Should an appeal be taken in this application or should this application become involved in an interference, consideration of the appeal and the interference will be expedited by all Patent and Trademark Office officials concerned, contingent likewise upon diligent prosecution by the applicant.

After allowance, this application will be given priority for printing. See M.P.E.P. § 1309.

The petition is granted to the extent indicated.

Inquiries regarding this decision should be directed to Lissi Mojica Marquis at (703) 308-2260.

Lissi Mojica Marquis, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P. O. Box 1450
Alexandria, VA 22313-1450
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FULBRIGHT & JAWORSKI, L.L.P.
600 CONGRESS AVENUE, SUITE 2400
AUSTIN, TX 78701

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MAY 17 2007

OFFICE OF PETITIONS

In re Application of :
Jinzhuo Dong :
Application No. 10/355,430 : ON PETITION
Filed: January 31,2003 :
Attorney Docket No. MONS:067US

This is a decision on the petition, filed May 16, 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 April 16, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 1638 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 2/14/06

TO SPE OF : ART UNIT 1638

SUBJECT : Request for Certificate of Correction on Patent No.: 6979764

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within 7 days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Valerie Jackson

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 ext. 114

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved**	**All changes apply.**
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments:

SPE

1638
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20060615

DATE : June 15, 2006

TO SPE OF : ART UNIT 1638

SUBJECT : Request for Certificate of Correction on Patent No.: 7015385

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:

Applicant's certificate of correction indicates that in column 39, line 55, the recitation, "seeds", which appears before "of hybrid" should be deleted. The recitation at that location in the patent is actually "seed" (singular) and it should be deleted.

SPE: [signature] **Art Unit** 1638

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)
6637633	2003-10-28	10355494	2003-01-31	EBER101

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 L. SHAVER/	Date (YYYY-MM-DD)	2007-11-02
Name	ROBERT L. SHAVER	Registration Number	42145

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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www.uspto.gov

In re Patent No. 6637633
Issue Date: October 28,2003
Application No. 10355494
Filed: January 31,2003
Attorney Docket No.

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed November 2,2007 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of November 2,2007 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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Paper 5

POLSTER, LIEDER, WOODRUFF & LUCCHESI
12412 POWERSCOURT DRIVE SUITE 200
ST. LOUIS MO 63131-3615

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NOV 0 8 2004

OFFICE OF PETITIONS

In re Application of
Mahoney et al.
Application No. 10/355,507
Filed: January 31, 2003
Attorney Docket No. NEEC 8365US
Title of Invention: Control Housing and Method of Manufacturing

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), filed July 19, 2004, to revive the above-identified application.

This above-identified application became abandoned for failure to file a response to a Notice to File Corrected Application Papers which was mailed on April 11, 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 June 12, 2003. A Notice of Abandonment was mailed on June 2, 2004.

The requirements for a grantable petition under 37 CFR §1.137(b) have been met. This petition is hereby **Granted**.

The Office acknowledges receipt of the replacement drawings.

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 (571) 272-3215.

Charlema R. Grant
Petitions Attorney
Office of Petitions

United States
Patent And
Trademark Office

P.O. Box 1450, Alexandria, Virginia 22313-1450 – www.uspto.gov

PETITION DECISION

05/24/04

James E. Fajkowski
Testa, Hurwitz, & Thibeault, LLP
High Street Tower, 125 High Street
Boston, Ma 02110

Dear Applicant:

The Box PG Pub replacement drawings for application number 10/355509 received on 05/03/04 by the U. S. Patent and Trademark Office will be included for patent publication.

Telephone inquiries should be directed to Kaletus King, Office of Pre-Grant Publication 703 605-4283.

Kaletus King

Signature of Reviewer, Office of Pre-Grant Publication

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IBM CORP (YA)
C/O YEE & ASSOCIATES PC
P.O. BOX 802333
DALLAS, TX 75380

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OFFICE OF PETITIONS

In re Application of :
James R. Boykin, et al. :
Application No. 10/355,530 : ON PETITION
Filed: January 30, 2003 :
Attorney Docket No. AUS920020731US1 :

This is a decision in response to the petition, filed December 1, 2006, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for a failure to reply in a timely manner to an Office action mailed January 20, 2006. A Notice of Abandonment was mailed on August 8, 2006. In response, on December 1, 2006, the present petition was filed.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,500; and (3) the requisite statement of unintentional delay.

The application is being referred to Technology Center AU 2191 for consideration of the amendment filed December 1, 2006.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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TOWNSEND AND TOWNSEND AND CREW, LLP
2 EMBARCADERO CENTER, 8TH FLOOR
SAN FRANCISCO CA 94111

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OFFICE OF PETITIONS

In re Application of :
Gelfand et al. :
Application No. 10/355,532 : ON PETITION
Filed: January 30, 2003 :
Attorney Docket No. 18915-US3 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed January 4, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an Amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $1020.00 extension of time fee submitted with the petition on January 4, 2007, was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account as authorized.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a request to change the address of record should be filed. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

This matter is being referred to Technology Center 1600 for further examination on the merits.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Walsh
Petitions Examiner
Office of Petitions

Cc:

ROCHE MOLECULAR SYSTEMS, INC.
1145 ATLANTIC AVENUE
PATENT DEPARTMENT
ALAMEDA, CA 94501

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OFFICE OF PETITIONS

Dechert LLP
P.O. Box 390460
Mountain View, CA 94039-0460

In re Application of	:	
Rajinder Singh et al.	:	
Application No. 10/355,543	:	DECISION ON PETITION
Filed: January 31, 2003	:	TO WITHDRAW
Attorney Docket No. A-71853/AMP	:	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 21, 2007.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Dechert LLP has been revoked by the assignee of the patent application on April 11, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Terri Williams at 571-272-2991.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Rigel Pharmaceuticals Inc.**
c/o Foley & Lardner LLP
1530 Page Mill Road
Palo Alto, CA 94304

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Rigel Pharmaceuticals, Inc.
c/o Foley & Lardner LLP
975 Page Mill Road
Palo Alto, CA 94304

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JUN 19 2009

OFFICE OF PETITIONS

In re Application of	:	
Rajinder Singh, et al.	:	
Application No. 10/355,543	:	DECISION ON PETITION
Filed: January 31, 2003	:	TO WITHDRAW
Attorney Docket No. 064311-1554	:	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 19, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. 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 Gerald F. Swiss on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The 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 Terri Williams at 571-272-2991.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Rigel Pharmaceuticals, Inc.**
1180 Veterans Boulevard
San Francisco, CA 94080

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/355,543	01/31/2003	Rajinder Singh	064311-1554

CONFIRMATION NO. 4843

POWER OF ATTORNEY NOTICE

69588
RIGEL PHARMACEUTICALS INC.
C/O FOLEY & LARDNER LLP
975 PAGE MILL ROAD
PALO ALTO, CA 94304

OC000000036563397

Date Mailed: 06/19/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/19/2009.

- 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.

/tswilliams/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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Paper No. 6

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins CO 80527-2400

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OFFICE OF PETITIONS

In re Application of	:	
Liu, Huberty, Tahir, and Oshima	:	DECISION ACCORDING STATUS
Application No. 10/355,551	:	UNDER 37 CFR 1.47(a)
Filed: 31 January, 2003	:	
Atty Docket No. 100200941-1	:	

This is in response to the petition filed under 37 CFR 1.47(a) on 1 August, 2003.

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventor, Marie Tahir, has refused to join in the filing of the above-identified application after having been sent a copy of the application papers. Specifically, the petitioners have established, by the declaration of petitioners' registered patent attorney Ronald M. Pomerenke, that a copy of the above-identified application was sent on two occasions to the residence address of the non-signing inventor. However, the non-signing inventor failed to return a signed declaration naming her as a joint inventor along with Janice Liu, Teresa Huberty, and Craig Oshima. Additionally, petitioners have provided a declaration signed by previously non-signing inventor Janice Liu.

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.

Counsel's deposit account, No. 08-2025, will be charged the $130.00 petition fee as authorized in the transmittal letter filed on 1 August, 2003.

The application is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries related to this decision should be directed to the undersigned at 703-308-6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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DIW 00-03

Marie Tahir
4183 Kerwood Court
San Diego, CA 92130

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OFFICE OF PETITIONS

In re Application of
Liu et al.
Application No. 10/355,551
Filed: 31 January, 2003
For: METHOD AND SYSTEM PROVIDING CUSTOMER PRODUCT SUPPORT

Dear Ms. Tahir:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at 703/308-6918. Requests for information regarding your application should be directed to the File Information Unit at 703/308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 703/308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

HEWLETT-PACKARD COMPANY
INTELLECTUAL PROPERTY ADMINISTRATION.
P.O. BOX 272400
FORT COLLINS CO 80527-2400

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NOV 24 2004

REED INTELLECTUAL PROPERTY LAW GROUP
800 MENLO AVENUE, SUITE 210
MENLO PARK CA 94025

In re Application of :
James Lupton Hedrick et al. :
Serial No.: 10/355,554 : PETITION DECISION
Filed: January 30,2003 :
Attorney Docket No.: ARC920020055US3 :

This is in response to the petition under 37 CFR 1.181, filed June 8, 2004, for withdrawal of abandonment of the above identified application based on a timely response to the Office Action of September 10, 2003. The delay in acting on this petition is regretted.

A review of the file history shows that the examiner mailed an Office action to applicants on September 10, 2003, setting a one month shortened statutory period for reply. Upon failure to receive a reply the Office mailed a Notice of Abandonment to applicants on June 2, 2004. Applicants state that there was a timely response, which included a Second Preliminary amendment, a Response to Requirement for Election of Species, and a Transmittal authorizing $36 for additional claim fee from applicant's deposit account. Applicant's have submitted a copy of the response, the authorization to collect the fee, the amendment and a Postcard receipt dated September 10, 2003 and stamped as being received by the Office on September 16, 2003. The fee for $36 and a $130 fee for the petition were received on June 15, 2004.
The petition is **GRANTED** to withdraw the holding of abandonment.

The application will be forwarded to the examiner for further action.
There is no fee for this petition and $130 will be credited to account number 09-0441.

Should there be any questions about this decision please contact Jean F. Vollano, by letter addressed to Director, TC 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0648 or by facsimile sent to the general Office facsimile number.

Jean F Vollano for
Bruce Kisliuk
Director, Technology Center 1600

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Alexandria, VA 22313-1450
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1400 PAGE MILL ROAD
PALO ALTO, CA 94304-1124

In re Application of :
Hedrick, et al. :
Application No. 10/355,554 : PATENT TERM ADJUSTMENT
Filed: January 30, 2003 :
Atty. Dkt. No.: ARC920020055US3 :

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b) AND PETITION TO WAIVE THE RULES UNDER 37 C.F.R. § 1.83," filed August 22, 2005.

DECISION UNDER 37 CFR 1.705(b)

A Notice of Allowance was mailed in the above-identified application on June 15, 2005. The issue fee was submitted August 10, 2005. An application for patent term adjustment (PTA) was filed August 22, 2005.

The provisions of 37 CFR 1.705(b) state:

> "[an]y request for reconsideration of the patent term adjustment indicated in the notice of allowance, except as provided in paragraph (d) of this section, and any request for reinstatement of all or part of the term reduced pursuant to § 1.704(b) must be by way of an application for patent term adjustment. An application for patent term adjustment under this section must be filed no later than the payment of the issue fee but may not be filed earlier than the date of mailing of the notice of allowance."

The instant application for PTA was submitted subsequent to the submission of the issue fee payment. Accordingly, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED AS UNTIMELY**.

DECISION UNDER 37 CFR 1.183

In an extraordinary situation, when justice requires, any requirement of the regulations which is not a requirement of the statutes may be suspended or waived by the Director or the

Director's designee, sua sponte, or on petition of the interested party, subject to such other requirements as may be imposed. *See*, 37 CFR 1.183.

Petitioners attribute the failure to timely submit the application for PTA to "miscommunication" between bicoastal counsel. Failure by applicants voluntarily chosen representatives to communicate is not deemed "extraordinary" within the meaning of 37 CFR 1.183 such as to warrant a waiver of the rules.

The Office must complete its determination of patent term adjustment before proceeding to issue the patent (35 U.S.C. 154(b)(3)(D)). Thus, the Office must require that such application for patent term adjustment be filed within a non-extendable time period and set forth with particularity why the Office's patent term adjustment determination is not correct. In the absence of these requirements, the issuance of the patent will be further delayed by a protracted patent term adjustment determination proceeding. Accordingly, the two month period of time for submission of an application for PTA is not extendable. *See*, 37 CFR 1.705(e).

In view thereof, the petition under 37 CFR 1.183 for waiver of the requirements of 37 CFR 1.705(b) is hereby **DISMISSED**.

The application file is being forwarded to the Office of Patent Publication for issuance of the patent. The patent term adjustment shown on the patent (and in the Issue Notification mailed approximately three weeks prior to issuance) will include any additional patent term accrued pursuant to sections 1.702(a)(4) and 1.703(b).

The Office hereby acknowledges receipt of the required application fee and petition fee submitted herewith.

This file is being forwarded to the Office of Patent Publication for issuance into a patent.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

DATE 10/3/07 APPLICATION NUMBER 10/355,554

DOC CODE Pet. Dec. Cocin DOC DATE

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DELIVER THE ATTACHED FIFLE/DOCUMENT TO THE TC SCANNING CENTER

CONTRACTOR: THE ATTACHED FILE/DOCUMENT MUST BE INDEXED AND SCANNED INTO IFW WITHIN **8** WORK HOURS; UPLOADING OF THE SCANNED IMAGES SHOULD OCCUR NO LATER THAN **16** WORK HOURS FOLLOWING RECEIPT OF THIS REQUEST

AFTER SCANNING, ORIGINAL DOCUMENTS SHOULD BE BOXED IN ACCORDANCE WITH INSTRUCTIONS

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OFFICE OF PETITIONS

In re Patent No. 7,053,221 :
Issue Date: May 30, 2006 :
Application No. 10/355,554 : ON PETITION
Filed: January 30, 2003 :
Attorney Docket No. ARC920020055US3 :

This is a decision on the petition filed November 16, 2006, which is being treated as a petition under 37 CFR 3.81(b)[1] to change assignee's names on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **granted.**

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3210. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

This application is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Irvin Dingle
Petitions Examiner
Office of Petitions

[1] See Official Gazette of June 22, 2004

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FISH & NEAVE IP GROUP
ROPES & GRAY LLP
ONE INTERNATIONAL PLACE
BOSTON MA 02110-2624

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OFFICE OF PETITIONS

In re
Redi, et al.
Application No. 10/355,556
Filed: January 31, 2003
Attorney Docket No. BBNT-P01-246

: DECISION REGARDING
: PATENT TERM ADJUSTMENT

This letter is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT", filed December 29, 2006. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from three hundred seventy (370) days to four hundred five (405) days.

The application for patent term adjustment is **DISMISSED**.

On October 2, 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 three hundred seventy (370) days. On December 29, 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 four hundred five (405) days.

Applicants failed to state whether the patent issuing is subject to a terminal disclaimer.

---

[1] Applicants filed the application for patent term adjustment together with the filing of the issue fee.

The Office initially determined a patent term adjustment of three hundred seventy (370) days based on an adjustment for PTO delay of four hundred fourteen (414) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1), reduced by Applicants' delays of nine (9) days pursuant to 35 U.S.C. 154(b)(2)(C)(ii) and 37 C.F.R. 1.704(b), and thirty-five (35) days pursuant to 35 U.S.C. 154(b)(2)(C)(iii) and 37 C.F.R. § 1.704(c)(8). The adjustment of thirty-five (35) days is at issue.

A review of the application file reveals that applicants filed a Supplemental Information Disclosure Statement (IDS) on August 26, 2005, after they had previously filed a response on July 22, 2005. The IDS did not contain a proper 37 C.F.R. § 1.704(d) statement. The IDS contained a statement that "each item contained in this Statement was first cited in **a** communication from a foreign patent office in a counterpart application"... and that "this communication was not received by any individual designated in 37 C.F.R. §1.56(c) more than thirty days prior to the filing of this Statement." § 1.704(d) states that an IDS will not be considered a failure to engage under (c)(8) if it is accompanied by a statement that "each item of information contained in the information disclosure statement was first cited in **any** communication from a foreign patent office in a counterpart application and that this communication was not received" more than thirty days prior to the filing of the IDS.

Applicants should have mirrored the language of "first cited in any communication" as required by § 1.704(d). Accordingly, applicant delay of thirty-five (35) days was properly assessed pursuant to 37 C.F.R. § 1.704(c)(8).

In view thereof, the correct determination of patent term adjustment is **three hundred seventy (370) days.**

If applicants want to make the proper assertion, then applicants may file a Request for Reconsideration of this patent term adjustment decision, with a statement mirroring the language of § 1.704(d). Patentees are given **two (2) months** to respond to this decision. No extensions of time will be granted under 37 C.F.R. § 1.136(a).

The $200 fee under 37 C.F.R. § 1.18(e) has been charged to Deposit Account No. 18-1945, as authorized.

The matter is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

Nancy Johnson
Senior Attorney
Office of Petitions

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ROPES & GRAY LLP
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BOSTON MA 02110-2624

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OFFICE OF PETITIONS

In re	:
Redi, et al.	: DECISION REGARDING
Application No. 10/355,556	: PATENT TERM ADJUSTMENT
Filed: January 31, 2003	: AND NOTICE OF INTENT
Patent No. 7,286,844	: TO ISSUE
Issued: October 23, 2007	: CERTIFICATE OF CORRECTION

This letter is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT DECISION TERMINAL DISCLAIMER", filed October 15, 2007. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from three hundred seventy (370) days to four hundred five (405) days.

The application for patent term adjustment is **GRANTED**.

On October 2, 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 three hundred seventy (370) days. On December 29, 2006, Applicants timely[1] submitted an application for patent term adjustment, asserting that the correct number of days of PTA at the time of the mailing of the Notice of Allowance is four hundred five (405) days. However, the application for patent term adjustment was dismissed in a decision mailed on September 13, 2007. The application issued into Patent No. 7,286,844 on October 23, 2007, with a revised patent term adjustment of 466 days.

The Office initially determined a patent term adjustment of three hundred seventy (370) days based on an adjustment for PTO delay

[1] Patentees filed the application for patent term adjustment together with the filing of the issue fee.

of four hundred fourteen (414) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1), reduced by Applicants' delays of nine (9) days pursuant to 35 U.S.C. 154(b)(2)(C)(ii) and 37 C.F.R. 1.704(b), and thirty-five (35) days pursuant to 35 U.S.C. 154(b)(2)(C)(iii) and 37 C.F.R. § 1.704(c)(8). The adjustment of thirty-five (35) days is at issue.

Patentees filed an application for patent term adjustment on December 29, 2006. However, the request was dismissed in a decision mailed on September 13, 2007, because Patentees did not include a proper 37 C.F.R. § 1.704(d) statement.

With the instant request for reconsideration, Patentees have certified under 37 C.F.R. §1.704(d) that "each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in 37 C.F.R. § 1.56(c) more than 30 days prior to the filing of the information disclosure statement."

Accordingly, patentees should not have been assessed delay of thirty-five (35) days for filing of the IDS.

In view thereof, and considering the periods of adjustment of 177 days and 39 days entered after the mailing of the notice of allowance, the patent should have issued with a patent term adjustment of **five hundred one (501) days**.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify the error regarding the patent term information. The certificate of correction will indicate that the term of the above-identified patent is extended or adjusted by **five hundred one (501)** days subject to any disclaimers.

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

Nancy Johnson
Senior Attorney
Office of Petitions

Enc: draft Certificate of Correction (1 page)

UNITED STATES PATENT AND TRADEMARK OFFICE

DRAFT CERTIFICATE OF CORRECTION

PATENT : 7,286,844 B1

DATED : October 23, 2007

INVENTOR(S) : Redi, et. al.

DRAFT

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (466) days

Delete the phrase "by 466 days" and insert – by 501 days—

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
www.uspto.gov

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NOV 2 1 2007

OFFICE OF PETITIONS

MORRISON & FOERSTER LLP
755 PAGE MILL RD
PALO ALTO CA 94304-1018

In re Application of

LEEDY, Glenn J.
Application No. 10/355,558
Filed: January 31, 2003
Attorney Docket No. **M-12915-13C US**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 12, 2007.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272- 2783.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **GLENN J. LEEDY**
ELM TECHNOLOGY
8010 BETHEL CHURCH ROAD
SALINE, MI 48176

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

VAN PELT, YI & JAMES LLP
10050 N. FOOTHILL BLVD #200
CUPERTINO CA 95014

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DEC 12 2007

OFFICE OF PETITIONS

In re Application of :
Matthew Beck :
Application No. 10/355,562 : DECISION ON PETITION
Filed: January 31, 2003 :
Attorney Docket No. 3660P071 :

This is a decision on the petition under 37 CFR 1.137(b), filed June 4, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 18, 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 19, 2006. A Notice of Abandonment was mailed on April 17, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1,500, and (3) a proper statement of unintentional delay. Accordingly, the reply to the Office action of September 18, 2006 is accepted as being unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for

the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

This application is being referred to Technology Center AU 2626 for appropriate action in the normal course of business on the reply received June 4, 2007.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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AUG 24 2005

PFIZER INC.
PATENT DEPARTMENT, MS8260-1611
EASTERN POINT ROAD
GROTON CT 06340

In re Application of :
Johnson et al. : PETITION TO MAKE SPECIAL
Serial No.: 10/355,575 :
Filed: January 31, 2003 :
Attorney Docket No.: PC23305A

This is in response to applicants' petition filed August 18, 2005, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

Applicants have satisfied the provisions set forth in M.P.E.P. 708.02, VIII. (A), (B), (C), (D), and (E). The $130.00 petition fee as required by 37 CFR 1.17(h) was charged to applicant's Deposit Account No. 16-1445, as authorized. Therefore, the petition is **GRANTED**.

The application will be forwarded the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact Marianne C. Seidel by letter addressed to the Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0584 or by facsimile transmission at the general Office facsimile number, (703) 872-9306.

Marianne C. Seidel
Special Program Examiner
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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PFIZER INC
STEVE T. ZELSON
150 EAST 42ND STREET
5TH FLOOR - STOP 49
NEW YORK, NY 10017-5612

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FEB 0 6 2008

OFFICE OF PETITIONS

In re Application of :
Barbara A. JOHNSON et al. :
Application No. 10/355,575 : DECISION ON PETITION
Filed: January 31, 2003 :
Attorney Docket No. PC23305A :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 16, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, October 24, 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) was obtained. Accordingly, the application became abandoned on January 25, 2007.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee of $1540.00; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of October 24, 2006, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

The application file is being referred to Technology Center AU 1623 for appropriate action on the concurrently filed amendment.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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Alexandria, VA 22313-1450
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PFIZER INC.
PATENT DEPARTMENT
235 EAST 42ND STREET, FLOOR 20
NEW YORK, NY 10017-5755

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SEP 15 2008

In re Application of	:	
Johnson et al.	:	
Application No. 10/355,575	:	DECISION ON PETITION
Filed: January 31, 2003	:	
Attorney Docket No. PC23305A	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 14, 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 July 10, 2008, as required by the Notice of Allowance and Fee(s) Due mailed April 10, 2008. Accordingly, the date of abandonment of this application is July 11, 2008. A Notice of Abandonment was mailed July 18, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,440.00 and the publication fee of $300.00, (2) the petition fee of $1,540.00; and (3) a proper statement of unintentional delay.

The address given on the petition differs from the address of record. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to Joan Olszewski at (571) 272-7751.

This application is being referred to the Office of Data Management for processing into a patent.

Liana Walsh
Petitions Examiner
Office of Petitions

cc: David Kershner
Pfizer Inc.
Patent Depart.-5th Floor
150 East 42nd Street
New York, NY 10017-5612

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COMMISSIONER FOR PATENTS
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Koestner Bertani LLP
18662 MacArthur Boulevard
Suite 400
Irvine, CA 92612

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FEB 18 2005

OFFICE OF PETITIONS

In re Application of :
Paul F. Holder :
Application No. 10/355,582 : ON PETITION
Filed: January 30, 2003 :
Attorney Docket No. SW-00805 (P011US) :

This is a decision on the petition filed January 24, 2005, to correct assignment data on Form PTOL-85(b).

The petition is granted.

The requested data will be printed on the patent if this can be accomplished without substantial disruption to the issue process. However, if the printing of the patent has progressed to the point where the requested data cannot be included in the printed patent, petitioner can request a Certificate of Correction under 37 CFR 1.322.

The application is being referred to the Publishing Division to be processed into a patent.

Marianne E. Jenkins
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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SCHLUMBERGER OILFIELD SERVICES
200 GILLINGHAM LANE
MD 200-9
SUGAR LAND, TX 77478

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MAR 1 4 2005

OFFICE OF PETITIONS

In re Application of :
Brian Clark, et al. :
Application No. 10/355,599 : ON PETITION
Filed: January 30, 2003 :
Attorney Docket No. 24.0806-D1 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 11, 2005, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 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]

It is noted that the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

The application is being referred to Technology Center AU 2635 for further processing of the request for continued examination under 37 CFR 1.114 filed March 11, 2005.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Kevin P. McEnaney
Schlumberger Technology Corporation
PO Box 2175
Houston, TX 77252-2175

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:09302005

DATE : September 30, 2005

TO SPE OF : ART UNIT 1638

SUBJECT : Request for Certificate of Correction on Patent No.: 6,914,177 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 3-910
Palm location **7590** - Tel. No. 305-8201

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved** **All** changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

The request filed on 2 September 2005 to correct the inventiorship is approved, the Examiner will issue a PTO-90C to make the record clear that the request for a correction of inventorship filed on 21 July 2003 was approved. The request filed 4 August 2005 to correct errors is approved, but the Examiner has corrected the line number of the error at column 30, line 5 and column 70, line 40 in the certificate of correction.

DAVID H. KRUSE, PH.D.
PRIMARY EXAMINER

W. Gary Jones
Supervisory Patent Examiner
Technology Center 1600

PTO/SB/44 (05-03)
Approved for use through 01/31/2004. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO : **6,914,177 B1**

DATED : **July 5, 2005**

INVENTOR(S) : **COLBERT, Terry R., et al.**

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Front of Patent, first column (75) add inventors:

Candice A. C. Gardner, Polk City, IA (US)
Gary Henke, Marshall, MO (US)

ok to enter
RK
9/30/05

MAILING ADDRESS OF SENDER:

PATENT NO. 6,914,177 B1

Lila A. T. Akrad, Reg. No. 52,550
McKee, Voorhees & Sease, P.L.C.
801 Grand Avenue, Suite 3200
Des Moines, IA 50309-2721

No. of additional copies

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: 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.

SEP 13 2005

PTO/SB/44 (05-03)
Approved for use through 01/31/2004. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO : **6,914,177 B1**

DATED : **July 5, 2005**

INVENTOR(S) : **COLBERT, Terry R., et al.**

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Col. 30, line 7:
~~effective~~enforceable life of the patent, whichever is longer, and will be

Col. 70, line 24:
16. The maize plant of claim 15, wherein the ~~transgenc~~transgene

Col. 70, line 39:
sisting of fructosyltransferase, levansucrase, ~~levansucrase,~~

Col. 71, line 29:
(a) crossing a PH86T plant grown from ~~PH186T~~PH86T seed,

MAILING ADDRESS OF SENDER:

PATENT NO. 6,914,177 B1

Lila A. T. Akrad, Reg. No. 52,550
McKee, Voorhees & Sease, P.L.C.
801 Grand Avenue, Suite 3200
Des Moines, IA 50309-2721

No. of additional copies

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: 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.

AUG 10 2005

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JUN 19 2007

OFFICE OF PETITIONS

MORGAN, LEWIS & BOCKIUS, LLP
ONE MARKET SPEAR STREET TOWER
SAN FRANCISCO CA 94105

In re Application of :
Richard Cawthon :
Application No. 10/355,626 : ON PETITION
Filed: January 31, 2003 :
Attorney Docket No. 067629-5009-US :

This is a decision in response to the petition, filed March 2, 2007, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed August 9, 2006, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extension of time under the provisions of 37 CFR 1.136(a) was obtained. On March 2, 2007 the present petition was filed. A Notice of Abandonment was subsequently mailed on March 6, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the response in the form of an election of the invention to be examined; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. All other inquiries regarding this application should be directed to the Technology Center.

The application is being referred to Technology Center AU 1637 for consideration of the response filed March 2, 2007.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Paper No. 9

FOLEY & LARDNER
777 East Wisconsin Avenue, Suite 3800
Milwaukee, WI 53202-5308

JAN 8 2005

In re Application of:
Ronald J. Robley
Serial No.: 10/355,631
Filed: January 31, 2003
Attorney Docket No.: **048674-0249**

DECISION ON PETITION
TO WITHDRAW HOLDING
OF ABANDONMENT

This is a decision on the petition filed June 28, 2004, under 37 C.F.R. § 1.181, to withdraw the holding of abandonment in the above-identified application. No petition fee is required.

The request is **GRANTED**.

The application was held abandoned for the failure to timely file a response to the non-final Office action mailed on October 23, 2003. A Notice of Abandonment was mailed on June 22, 2004.

Petitioner asserts that on March 23, 2004, a response and a petition for a two-month extension of time were timely filed in the above-identified application. To support this assertion, petitioner has submitted a copy of the response, a copy of the date stamped express mail label, a copy of a check for the fees and a copy of a date stamped post card receipt bearing a date of receipt in the USPTO of March 23, 2004.

A review of the application file reveals the above noted response was not matched with the application file wrapper at the time of mailing of the Notice of Abandonment. The above-identified response filed March 23, 2004, has since been located and matched with the file wrapper.

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 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 at (571) 272-1594.

Howard N. Goldberg, Director
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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BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

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NOV 19 2008

In re Application of
Juan Jose Gonzalez, et al.
Application No. 10/355,632
Filed: January 31, 2003
Attorney Docket No. 002213.P010

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed August 25, 2008.

The petition is not signed by a registered attorney or agent of record.. However, in accordance with 37 CFR 1.34(a), the signature of Mark L. Watson appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before November 16, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed August 16, 2006, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on November 17, 2006. A Notice of Abandonment was mailed on December 13, 2006. On August 25, 2008, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the $1,440 issue fee and $300 publication fee; (2) the petition fee of $1,540; and (3) an adequate statement of unintentional delay[1].

The application is being referred to the Office of Data Management to be processed into a patent.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing as a patent should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While the statement is not made by an attorney of record, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

UNITED STATES PATENT AND TRADEMARK OFFICE

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SoCAL IP LAW GROUP LLP
310 N. WESTLAKE BLVD. STE 120
WESTLAKE VILLAGE, CA 91362

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MAY 11 2009

OFFICE OF PETITIONS

In re Application of :

Paul E. ERICKSON :
Application No. 10/355,672 : DECISION ON PETITION TO
Filed: January 31, 2003 : WITHDRAW FROM RECORD
Attorney Docket No. **S034-P08235US** :

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, 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. 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 C. Sereboff 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 as it 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 sole named signing inventor Paul E. Erickson 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: **PAUL E. ERICKSON**
1021 VIEWTOP ROAD
DUNCAN, BRITISH COLUMBIA V9L 5S7
CANADA

cc: **DOUGLAS N. LARSON**
2477 SADDLE PARK RAOD
MALIBU, CA 90265-3042

Attachment: Power/Revocation/New Power Of Attorney with Address Change (PTO/SB/81)

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. 5

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JUN 2 5 2003

OFFICE OF PETITIONS

Robert M. Storwick
PO Box 386
Mercer Island WA 98040

In re Application of
Tang
Application No. 10/355,679
Filed: January 30, 2003
Attorney Docket No. TG114050
For: TOOL FOR FORMING AN UNDERCUT HOLE AND METHOD FOR ITS USE

: DECISION GRANTING
: PETITION

This is a decision on the petition, filed May 28, 2003 (certificate of mailing date May 17, 2003), requesting, in effect, withdrawal of the Notice of Omitted Item(s) in a Nonprovisional Application (Notice), mailed March 18, 2003.

The application was filed on January 30, 2003. On March 18, 2003, the Office of Initial Patent Examination mailed a Notice informing petitioner that pages 6 and 7 of the specification appeared to have been omitted.

In response to the Notice, petitioner timely filed the present petition. Petitioner requests that pages 6 and 7 be accorded a filing date of January 30, 2003 on the basis that the entire specification, including allegedly missing pages 6 and 7, was received in the Patent and Trademark Office (PTO) on January 30, 2003. In support, the petition is accompanied by a copy of applicant's itemized postcard receipt showing an Office of Initial Patent Examination generated barcode citing January 30, 2003 as the date of receipt. The postcard lists, *inter alia*, that the filing included 14 pages of specification. A review of the application file reveals that there are 12 pages present. Pages 6 and 7 are missing.

The return postcard constitutes *prima facie* evidence that 14 pages of specification, including pages 6 and 7, was filed on January 30, 2003. MPEP 503. Accordingly, the request is **GRANTED**.

Pursuant to petitioner's authorization, the $130.00 petition fee will be credited to deposit account, no. 50-0234.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of January 30, 2003, using the copy of pages 6 and 7 supplied with the petition.

Any inquiries pertaining to this matter may be directed to the undersigned at (703) 308-6712.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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STANDLEY LAW GROUP LLP
495 METRO PLACE SOUTH
SUITE 210
DUBLIN, OH 43017

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MAY 24 2006
OFFICE OF PETITIONS

In re Application of :
William R. Dunn :
Application No. 10/355,680 : DECISION ON REQUEST
Filed: January 31, 2003 : TO WITHDRAW
Attorney Docket No. UNI 1773-005 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 11, 2005.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Stephen L. Grant on behalf of himself and all the attorneys/agents associated with Customer Number 08698. All the attorneys/agents associated with Customer Number 08698 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

While assignee attempted to intervene in the above-identified application, the power of attorney filed December 9, 2005 did not comply with 37 CFR 3.73(b) in that the reel and frame number where the recorded assignment appears in the assignment records of the USPTO has not been provided. All future communication from the Office will be directed to the first named inventor at the address below until otherwise properly notified by applicant. A courtesy copy of this decision is being mailed to the address noted on the request.

Telephone inquiries concerning this decision should be directed to Sherry D. Brinkley at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Conferee: Amelia Au

cc: WILLIAM R. DUNN
4445 BURGESS HILL LANE
ALPHARETTA, GA 30022

GREENBERG TRAURIG LLP
2450 COLORADO AVENUE, SUITE 400E
SANTA MONICA CA 90404

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
10/355,680	01/31/2003	William R. Dunn	UNI 1773-005

CONFIRMATION NO. 3666

OC000000018871580

OC000000018871580

08698
STANDLEY LAW GROUP LLP
495 METRO PLACE SOUTH
SUITE 210
DUBLIN, OH 43017

Date Mailed: 05/19/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/11/2005.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

Sherry D. Brinkley

SHERRY D BRINKLEY
OP (571) 272-3204

FORMER ATTORNEY/AGENT COPY

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GREENBERG TRAURIG LLP
2450 COLORADO AVENUE, SUITE 400E
SANTA MONICA CA 90404

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AUG 28 2006

OFFICE OF PETITIONS

In re Application of :
William R. Dunn :
Application No. 10/355,680 : DECISION REGARDING
Filed: January 31, 2003 : POWER OF ATTORNEY
Attorney Docket No. UNI 1773-005 :

The above-identified application has been referred to the Office of Petitions for reconsideration of the assessment, noted in a decision mailed May 24, 2006, of the Revocation and Power of Attorney mailed December 9, 2005.

Upon further review of the record it is noted that the power of attorney filed December 9, 2005 did, in fact, comply with 37 CFR 3.73(b) in that the reel and frame number where the recorded assignment appears in the assignment records of the USPTO was provided.

Accordingly, the decision mailed May 24, 2006, is modified to the extent that the power of attorney filed December 9, 2005 is acceptable.

All the attorneys associated with Customer Number 33717 have been made of record and the correspondence address has been changed as requested.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: WILLIAM R. DUNN
4445 BURGESS HILL LANE
ALPHARETTA, GA 30022

SPE: T. Dam

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/12/07

TO SPE OF : ART UNIT 2192

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/355,686 Patent No.: 6944859

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Lamonte M. Newsome
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- [x] **Approved** — All changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: _____

[signature] 2191
SPE **Art Unit**

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER, 8th FLOOR
SAN FRANCISCO, CA 94111-3834

In re Application of: Arakawa, et al.
Application No. 10/355,695
Filed: January 30, 2003
For: STORAGE SYSTEM HAVING VIRTUALIZED RESOURCE

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION) UNDER M.P.E.P. §708.02 (VIII)

This is a response to the petition filed December 6, 2004, under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **GRANTED**.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in **37 CFR 1.17(h)**;

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

Petition to Make Special **GRANTED** since all of the requirements for special status under MPEP § 708.02(VIII) have been met.

Since the claimed invention involves processes for accessing/controlling storage systems and database/file management, it is suggested that relevant classes/subclasses 711/100+ and 707/1+ be included in the field of search.

The application file is being forwarded to the Examiner for accelerated examination in accordance with the procedures set forth in M.P.E.P. §708.02, Section VIII. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. §1309.

Brian L. Johnson
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

SDL: 03/08/05

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OFFICE OF PETITIONS

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TWO EMBARCADERO CENTER, 8TH FLOOR
SAN FRANCISCO CA 94111

In re Application of :
Hiroshi Arakawa et al :
Application No. 10/355,695 : ON PETITION
Filed: January 30, 2003 :
Attorney Docket No. 16869P-060400US :

This is a decision on the petition, filed June 27, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 19, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2157 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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SAN FRANCISCO, CA 94111

OFFICE OF PETITIONS
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In re Application of :
Hiroshi Arakawa, et al. :
Application No.: 10/355,695 : ON PETITION
Filed: January 30, 2003 :
Attorney Docket No.: 16869P-060400US :

This is a decision on the petition, filed December 20, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on October 16, 2006, in the above-identified application, cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2157 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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APR 13 2005

Don W. Bulson, Esq.
RENNER, OTTO, BOISSELLE & SKLAR
1621 Euclid Avenue
19th Floor
Cleveland, OH 44115

In re Application of
Thomas E. Fish, Jr. et al
Application No. 10/355,697
Filed: January 31, 2003
For: WHEEL TENSIONING MECHANISM

DECISION ON PETITION
TO WITHDRAW THE
HOLDING OF ABANDONMENT

This is in reply to applicant's petition to withdraw the holding of abandonment under 37 CFR 1.181, filed in the United States Patent and Trademark Office, on January 4, 2005.

The petition is **DISMISSED.**

A review of the file record reveals that a restriction/election requirement was mailed March 24, 2004. No reply to the restriction/election requirement mailed March 24, 2004 has been by the Office. While the case should be abandoned as of September 24, 2004 no notice to that effect has been mailed.

Applicant states that restriction/election requirement of March 24, 2004 was never received and that the prior attorney of record's docket report does not indicate receiving the restriction/election requirement. In support of not receiving the office action applicant provides a copy of the attorney of record, Piper Rudnick's docket record for 10/355,976.

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.

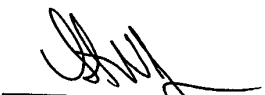
The docket records indicated above must include **a copy of the list of all responses in the practitioner's office to which the action was properly sent with the due date at and around April 24, 2004**. See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 OG 53 (November 16, 1993).

The petitioner has failed to comply with requirement (1)-(3) indicated above. The person signing the petition does not work at the firm to which the action was properly sent. His statements are meaningless. Statements (1) and (2) are needed from an attorney at Piper Rudnick. Bulson can file the petition but all relevant info must come Piper Rudnick. Applicant has only set forth that the restriction/election requirement mailed March 24, 2004 was not received or placed in the file for application 10/355,697. A complete docket record with a copy of the list of all responses in the practitioner's office to which the action was sent with the due date at and around April 24, 2004 is required.

Petitioner's evidence of non-receipt of the Office action mailed March 24, 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.



Steven N. Meyers
Special Program Examiner
Patent Technology Center 3600
(703) 308-3868

SNM/jwk: 3/29/05

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NOV - 9 2005

Don W. Bulson, Esq.
RENNER, OTTO, BOISSELLE & SKLAR
1621 Euclid Avenue
19th Floor
Cleveland, OH 44115

In re Application of :
Thomas E. Fish, Jr. et al :
Application No. 10/355,697 :
Filed: January 31, 2003 :
For: WHEEL TENSIONING MECHANISM

DECISION ON PETITION
TO WITHDRAW THE
HOLDING OF ABANDONMENT

This is in reply to applicant's renewed petition to withdraw the holding of abandonment under 37 CFR 1.181, filed in the United States Patent and Trademark Office, on June 15, 2005. There is no fee for this petition.

The petition is **GRANTED**.

A review of the file record reveals that a restriction/election requirement was mailed March 24, 2004. No reply to the restriction/election requirement, mailed March 24, 2004, has been received, as indicated in the Notice of Abandonment mailed May 23, 2005.

Applicant states that restriction/election requirement of March 24, 2004 was never received and that the prior attorney of record's docket report does not indicate receiving the restriction/election requirement.

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 to which the action was properly sent with the due date at and around April 24, 2004. See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 OG 53 (November 16, 1993).

In support of the contention of non-receipt, applicant has provided: a statement from Michael L. Kenega, who was the practitioner that would have received the Office Action, stating that the the Office Action was not received, a statement from Don W. Bulson attesting that the a search of the file jacket, which had been transferred to him on or about April 08, 2004, indicates that the Office Action was not received; a statement from Stephanie Warner-Wallace indicating that a search of the docket records indicates that the Office Action was not received, and a copy of the Piper Rudnik docket records showing all responses due at and around April 24, 2004.

This evidence is acceptable proof of non-receipt as provided by 1156 OG 53.

The application is being forwarded to the Supervisory Legal Instruments Examiner with instructions to withdraw the abandonment, return the application to pending status and to redate and remail the Office Action originally mailed March 24, 2004 based on the reasoning in the case of *Delgar v. Schuyler*, 172 USPQ 513.

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(571) 272-6587

KJD/rjc 10/13/05

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OFFICE OF PETITIONS

HOWREY LLP
C/O IP DOCKETING DEPARTMENT
2941 FAIRVIEW PARK DRIVE, SUITE 200
FALLS CHURCH, VA 22042-2924

In re Application of :
Jay S. Tung et al. :
Application No. 10/355,700 : ON PETITION
Filed: January 31, 2003 :
Attorney Docket No. 02351.0002.NPUS01 :

This is a decision on the "Request to Correct Inventor's Name" filed September 16, 2005, which is treated as a petition under 37 CFR 1.182.

The petition is **GRANTED**.

The petition requests that the third and fourth inventors' names be corrected from Gene Thorsett to Eugene Thorsett and Mike A. Pleiss to Michael A. Pleiss, respectively.

A review of the official file reveals that the inventors signed the declaration as "Eugene" and "Michael" although the typewritten names were listed as "Gene" and "Mike". Generally, in an application where the name is typewritten, but the signature is different, the typewritten version of the name will be used.[1]

Nonetheless, an application data sheet has been submitted with the full names of joint inventors Thorsett and Pleiss as desired, and the corrections have been made.

However, since the error was committed by the applicants, a fee in the amount of $400.00 has been charged to deposit account no. 08-3038, per the authorization found in the petition.

This matter is being referred to the Publishing Division to be processed into a Patent.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

[1] MPEP 605.04.

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JAN 22 2004

#5

JONES DAY
P.O. BOX 660623
DALLAS TX 75266-0623

In re Application of	:	
Bernnie F. Simmons	:	
Serial No.: 10/355,702	:	DECISION ON PETITION
Filed: January 21, 2003	:	
For: Protective Sideshield With Comfort Safety Wing	:	

This is in response to applicants' petition filed November 17, 2003 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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Paper No. None

LAHIVE & COCKFIELD
28 STATE STREET
BOSTON MA 02109

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AUG 14 2006

OFFICE OF PETITIONS

In re Application of :
Eric T. Hopkins :
Application No. 10/355,717 : DECISION ON PETIITON
Filed: January 31, 2003 : UNDER 37 C.F.R. §1.137(b)
Attorney Docket No. MVE-003CN2 :
Title: IMAGE ACQUISITION SYSTEM :

This is a decision on the petition filed February 6, 2006, pursuant to 37 C.F.R. §1.137(b)[1], to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed August 3, 2005, which set a shortened statutory period for reply of three months. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on November 4, 2005.

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

---

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.

until the filing of a grantable petition pursuant to 37 C.F.R. §1.137(b) was unintentional. Since the statement contained in the instant petition varies from the language required by 37 C.F.R. §1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 C.F.R. §1.137(b)(3) and petitioner must notify the Office if this is not a correct interpretation of the statement contained in the instant petition.

With this petition, Petitioner has submitted the petition fee, an amendment, and a statement which is being construed as the proper statement of unintentional delay. A terminal disclaimer is not required.

As such, this petition under 37 C.F.R. §1.137(b) is **GRANTED**.

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the amendment which was received with the present petition can be processed.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[2]. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

2 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. §1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MCCARTER & ENGLISH, LLP BOSTON
265 Franklin Street
Boston, MA 02110

Mail Date: 04/21/2010

Applicant	: T. Eric Hopkins	: DECISION ON REQUEST FOR
Patent Number	: 7587261	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/355,717	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/31/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **493** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P. O. Box 1450
Alexandria, VA 22313-1450
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ALFRED A. EQUITZ
GIRARD & EQUITZ LLP
400 MONTGOMERY STREET, SUITE 1110
SAN FRANCISCO, CA 94104

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MAR 0 8 2005

OFFICE OF PETITIONS

In re Application of :
Richard B. Merrill et al :
Application No. 10/355,728 : ON PETITION
Filed: January 31, 2003 :
Attorney Docket No. 2826

This is a decision on the petition, filed March 2, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 29, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter will be forwarded to Technology Center AU 2826 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
WASHINGTON, DC 20231
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SIERRA PATENT GROUP, LTD.
P O BOX 6149
STATELINE NV 89449

MAIL Paper No. 7

MAR 1 2 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Chen et al.
Application No. 10/355,750
Filed: January 31, 2003
For: **CAMERA EXPOSURE INDICATION INTERFACE**

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the Request to Withdraw as Attorney/Agent of record filed on December 29, 2003.

A grantable request to withdraw as attorney/agent of record must do the following:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

The Request to Withdraw as Attorney is **DISMISSED AS MOOT**.

Attorneys requesting withdraw are not of record due to a Revocation of Power of Attorney executed by the assignee filed February 2, 2004.

All future communications from the Office will continue to be directed to the address listed above until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4778

cc: V. Randall Gard
2200 Geng Road
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
www.uspto.gov

LEXMARK INTERNATIONAL, INC.
INTELLECTUAL PROPERTY LAW DEPARTMENT
740 WEST NEW CIRCLE ROAD
BLDG. 082-1
LEXINGTON, KY 40550-0999

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APR 07 2008

In re Application of :
Christopher A. ADKINS et al. :
Application No. 10/355,767 : DECISION ON PETITION
Filed: January 31, 2003 :
Attorney Docket No. **2002-0857.01** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 11, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice of Allowance and Fee(s) Due, mailed September 19, 2007. Accordingly, the date of abandonment of this application is December 20, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,440.00 and publication fee of $300.00; (2) the petition fee of $1,540.00; and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fee payments are accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

This application is being referred to Publishing Division for processing into a patent.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 4

ZIOLKOWSKI PATENT SOLUTIONS GROUP, LLC
(BMCA)
14135 NORTH CEDARBURG ROAD
MEQUON, WI 53097

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JUN 16 2003

OFFICE OF PETITIONS

In re Application of :
McChesney, et al. :
Application No. 10/355,769 : ON PETITION
Filed: January 30, 2003 :
Attorney Docket No. BMCA9159.266 :

This is a decision on the papers styled, "Response To Notice of Omitted Items In a Non-Provisional Application," filed on May 13, 2003, which has been treated as a Petition under 37 CFR 1.53, requesting that the above-identified application be accorded a filing date of January 30, 2003, including Figure 3 as described in the specification.

The application was filed on January 30, 2003. However, on April 15, 2003, the Office of Initial Patent Examination (OIPE) mailed a "Notice Of Omitted Item(s)" (Notice) that stated the application had been accorded a filing date, but Figure 3 as described in the specification appears to have been omitted.

In response, on May 13, 2003, the instant petition and a copy of Figure 3 as described in the specification were submitted. The papers were accompanied by a copy of applicant's postcard receipt that acknowledges receipt of eight (8) sheets of drawings on January 30, 2003. The eight (8) sheets of drawings contain Figures 1-11. A review of the application file indicates the presence of only seven (7) sheets of drawings with the sheet containing Figure 3 missing. It is assumed that missing sheet of drawings containing Figure 3 was misplaced by the Office.

In view of the above, the petition is granted.

The $130.00 petition fee submitted on May 13, 2003 will be refunded by treasury check.

This application will be returned to OIPE for further processing with a filing date of January 30, 2003, using the copy of Figure 3 as described in the specification, supplied on May 13, 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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DRUMMOND & DUCKWORTH
EAST TOWER, SUITE 440
5000 BIRCH STREET
NEWPORT BEACH, CA 92660

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OCT 29 2004

OFFICE OF PETITIONS

In re Application of :
Robert Stephen, et al. :
Application No. 10/355,778 : ON PETITION
Filed: January 30, 2003 :
Attorney Docket No. 746-P-7-USA :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

The application matter is being referred to the Publication Division.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 7

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NOV 1 3 2003

OFFICE OF PETITIONS

FOLEY & LARDNER
P.O. BOX 80278
SAN DIEGO CA 92138-0278

In re Application of
Forsberg, et al.
Application No.: 10/355,812
Filed: January 30, 2003
Attorney Docket No.: 028040-6002
For: IMMUNE RESPONSE REPLICATION IN CLONED ANIMALS

DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the reconsideration petition under 37 CFR 1.47(a), filed November 3, 2003 (certificate of mailing date October 30, 2003).

The petition is granted.

Petitioners have shown that the non-signing inventor, Michael D. Bishop, has constructively refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the second declaration by Attorney Richard San Pietro and accompanying exhibits establish that the inventor was successfully mailed the application papers, including the specification, claims and drawings, but the inventor failed to respond to the request that he sign the declaration. Petitioners have submitted a declaration in compliance with 37 CFR 1.63 and 1.64.

This application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the above-identified application will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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MICHAEL D. BISHOP
W4628 HALL RD.
RIO WI 53960

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NOV 1 3 2003

OFFICE OF PETITIONS

In re Application of
Forsberg, et al.
Application No.: 10/355,812
Filed: January 30, 2003
Attorney Docket No.: 028040-6002
For: IMMUNE RESPONSE REPLICATION IN CLONED ANIMALS

LETTER

Dear Mr. Bishop:

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: FOLEY & LARDNER
P.O. BOX 80278
SAN DIEGO CA 92138-0278

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. 5

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JUL 3 1 2003

OFFICE OF PETITIONS

FOLEY & LARDNER
P.O. BOX 80278
SAN DIEGO CA 92138-0278

In re Application of
Forsberg, et al.
Application No.: 10/355,812
Filed: January 30, 2003
Attorney Docket No.: 028040-6002
For: IMMUNE RESPONSE REPLICATION IN CLONED ANIMALS

DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed July 15, 2003 (certificate of mailing date July 11, 2003).

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

The above-identified application was filed on January 30, 2003 without an executed declaration. On April 11, 2003, the Office mailed a Notice to File Missing Parts of Nonprovisional Application, requiring an executed oath/declaration and a surcharge for its late filing. In response, on July 15, 2003 (certificate of mailing date July 11, 2003), petitioners filed a declaration executed by 4 of 5 joint inventors, and a Rule 47 petition with the required $130 fee. The petition is accompanied by a declaration by Attorney Richard San Pietro that states that Michael D. Bishop, the non-signing inventor, was mailed a declaration and power of attorney form for his signature, but Mr. Bishop has not returned the signed document.

A grantable petition under 37 CFR 1.47(a) requires

(1) a petition including proof of the pertinent facts establishing that the joint inventor(s) refuses to join, or cannot be found or reached after diligent effort,
(2) a proper oath or Declaration executed by the available joint inventor(s),
(3) the fee of $130 as specified in 37 CFR § 1.17(h), and
(4) the last known address of the omitted inventor(s).

This petition lacks item (1) above.

As to item (1), Applicants have failed to establish that the inventor has refused to sign the declaration. The proof of the pertinent events should be made by a statement of someone with first hand knowledge of the events. The Office requires that the non-signing inventor be provided with a complete copy of the application as filed. This includes the specification with claims, drawings, if any, and a declaration. See MPEP 409.03(d). Attorney San Pietro's declaration and the exhibits to the

declaration do not establish that Mr. Bishop was mailed a copy of the complete application.

Mr. Bishop must have the complete application in his possession in order to make an informed decision as to whether he joins in its filing. Mr. Bishop cannot make the necessary statements found in the declaration-- i.e. "I have reviewed and understand..." -- without having examined the patent application. When petitioners can show that Mr. Bishop was mailed and received the complete application and that he either refused to sign the declaration or would not respond to the request that he sign the declaration within a reasonable amount of time, petitioners will have satisfied this requirement.

The April 11, 2003 Notice set an extendable two month period for reply. Petitioners submitted the instant petition on certificate of mailing date July 11, 2003. Thus, a one month extension of time fee is required. Pursuant to petitioners' authorization, deposit account no. 50-0872 will be charged $110 for a one month extension of time.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop PETITION Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By facsimile:	(703) 308-6916 Attn: Office of Petitions
By hand:	Office of Petitions 2201 South Clark Place Crystal Plaza 4, Suite 3C23 Arlington, VA 22202

Telephone inquiries should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

OIPE
AUG 10 2005
PATENT & TRADEMARK OFFICE

1632

Atty. Dkt. No. 028040-6002

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: FORSBERG et al.

Title: IMMUNE RESPONSE REPLICATION IN CLONED ANIMALS

Appl. No.: 10/355,812

Filing Date: 01/30/2003

Examiner: Deborah Crouch, Ph.D.

Art Unit: 1632

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, PO Box 1450, Alexandria, Virginia 22313-1450, on the date below.

Joseph P. Meara
(Printed Name)

Joseph P. Meara
(Signature)

August 8, 2005
(Date of Deposit)

WD 09/22/05
APPROVED

REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

The firm of Foley & Lardner LLP, through the undersigned attorney, applies to withdraw as attorney of record regarding the above-referenced patent application. The reason for this request is failure by client to pay attorneys' fees. It is our understanding that the assignee is going out of business or is no longer in business.

Please change the correspondence address and direct all future correspondence to: Mr. Walter Simson, Chief Executive Officer, Infigen, Inc., 1825 Infinity Way, DeForest, Wisconsin 53532. His last known telephone numbers are (608) 824-0286 (home) and (608) 347-0190 (cell); and his e-mail address is walter.simson@tds.net.

The firm of Foley & Lardner has taken reasonable steps to avoid foreseeable prejudice to the rights of the client, including giving due notice to the client, allowing time for the employment of another practitioner, and attempting to deliver to the client all papers and property to which the client is entitled. A Restriction Requirement concerning the above-referenced application was issued by the Patent and Trademark Office on July 18, 2005. There

are at least 30 days between approval of this Withdrawal and the expiration date of the period of which can be obtained by a petition and fee for extension of time under 37 C.F.R. §1.136(a).

The undersigned believes no fee is due for this filing, however the Commissioner is hereby authorized to charge any fee for this filing to Deposit Account No. 50-2350. For the purpose of charging said deposit account, a duplicate copy of this Request is enclosed.

Respectfully submitted,

Date August 8, 2005

By Joseph P Meara

FOLEY & LARDNER LLP
Customer Number: 23524
Telephone: (608) 258-4303
Facsimile: (608) 258-4258

Joseph P. Meara
Attorney for Applicants
Registration No. 44,932

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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BORGWARNER INC.
3850 HAMLIN ROAD
AUBURN HILLS MI 48326

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SEP 19 2005

OFFICE OF PETITIONS

In re Patent No. 6,849,015 :
Issue Date: February 1, 2005 :
Application No. 10/355,847 : ON PETITION
Filed: January 31, 2003 :
Attorney Docket No. BW-DKT02072 :

This is a decision on the petition filed February 14, 2005, which is being treated as a petition under 37 CFR 3.81(b)[1] to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is granted.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3208. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

The file is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:
BROWN & MICHAELS
400 M&T BANK BUILDING - 118 N. TIOGA ST.
ITHACA, NY 14850

[1]See Official Gazette of June 22, 2004

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20080430

DATE : January 17, 2007

TO SPE OF : ART UNIT 2627

SUBJECT : Request for Certificate of Correction on Patent No.:

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriated box.

☐ **Approved** All changes apply.

☒ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

Page 1, reference "JP 11-14421" should be --JP 11-144218--

SPE: /Andrea Wellington/ Art Unit 2627

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

Edward Lopatinsky
#313
5450 Complex St.
San Diego CA 92123

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SEP 15 2004

OFFICE OF PETITIONS

In re Application of
Edward Lopatinsky et al.
Application No. 10/355,864
Filed: January 31, 2003
Attorney Docket No.: ARS-117
Title: APPARATUS FOR COOLING OF ELECTRONIC COMPONENTS

DECISION ON PETITION

This is a decision on the petition under 37 CFR § 1.137(b)[1], filed April 28, 2004, to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Missing Parts (notice), mailed March 12, 2003, which set a shortened statutory period for reply of two (2) months. The notice stated that the remainder of the filing fee and the surcharge associated with the late submission of an oath or declaration were required. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on June 13, 2003. A Notice of Abandonment was mailed May 13, 2002.

37 C.F.R. §1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. §1.137(b) was unintentional. Since the statement contained in the instant petition varies from the language required by 37 C.F.R. §1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 C.F.R. §1.137(b)(3) and petitioner must notify the Office if this is not a correct interpretation of the statement contained in the instant petition.

---

1 A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;

(2) The petition fee as set forth in § 1.17(m);

(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;

(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

With the instant petition, 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 the filing of the petition fee, the remainder of the filing fee, the surcharge, and has made a statement which is being construed as the proper statement of unintentional delay.

The petition is **GRANTED**.

After this decision is mailed, the application will be forwarded to the Technology Center 2800 for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0011. Please note that on approximately September 28, 2004, the Office of Petitions will relocate to the new PTO location in Alexandria. Although the mailing address will remain the same, the general phone number for the Office of Petitions which should be used for status requests will change to 571-272-3282, and the telephone number for the undersigned will change to 571-272-3225.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

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RICHARD L. MIKESELL
14827 VENTURA BLVD., SUITE 216
SHERMAN OAKS, CA 91403

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OFFICE OF PETITIONS

In re Application of :
Cameron Stuart Tait :
Application No. 10/355,874 : ON PETITION
Filed: February 3, 2003 :
Attorney Docket No. N/A :

This is a decision on the petition under 37 CFR 1.181, originally filed February 5, 2004, to withdraw the holding of abandonment. The petition was recently forwarded to this office for consideration.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee and publication fee, if applicable, on or before November 7, 2003. Accordingly, this application became abandoned on November 8, 2003. A Notice of Abandonment was mailed on December 17, 2003.

Petitioner asserts the Office communication was not received. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See Withdrawing the Holding of Abandonment When Office Actions Are Not Received; Notice 1156 Off. Gaz. Pat. Office 53 (November 16, 1993).

The required statements and docket records have been submitted and considered.

In view thereof, the Notice of Abandonment is hereby vacated, and the holding of abandonment is withdrawn. A new Notice of Allowance and Fee(s) Due will be mailed and the period for reply will be re-started.

The petition under § 1.181 is GRANTED.

No fee is required on petition under § 1.181.

Technology Center AU 2831 has been advised of this decision. The application file is, thereby, forwarded to the Technology Center's technical support staff for mailing of a new Notice of Allowance and Fee(s) Due, as well as, for re-mailing of the Notice of Allowability. The three (3) month nonextendable time period for responding to the Notices, including paying the Issue Fee, will be set to run from the mailing date of the new Notices.

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