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Nagendra Setty
JONES DAY
1420 PEACHTREE ST, NE
SUITE 800
ATLANTA GA 30309-3053

MAILED

JAN 2 7 2005

Technology Center 2100

In re Application of: Judge
Application No. 10/361,091
Filed: February 7, 2003
For: SYSTEMS AND METHODS FOR MESSAGE THREAT MANAGEMENT

DECISION ON PETITION TO MAKE SPECIAL UNDER M.P.E.P.§708.02(II): INFRIGEMENT

This is a decision on the petition filed November 8, 2004 under 37 C.F.R. 102(d) and M.P.E.P. § 708.02(II): Infringement, to make the above-identified application special.

The Petition is **GRANTED**.

M.P.E.P. § 708.02, Section II 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) A statement by the applicant, assignee, or an attorney/agent registered to practice before the Office 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.

(c) Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record.

Petition to Make Special **GRANTED** since all of the requirements for special status under MPEP § 708.02(II) have been met.

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 II. 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

1/19/05

MBS

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BRYAN A. SANTARELLI
GRAYBEAL JACKSON HALEY LLP
SUITE 350
155 - 108TH AVENUE NE
BELLEVUE WA 98004-5973

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APR 18 2007

OFFICE OF PETITIONS

In re Application of	:	
de Wit et al.	:	
Application No. 10/361,095	:	DECISION ON PETITION
Filed: 6 February, 2003	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 1788-8-3	:	

This is a decision on the petition filed on 26 December, 2006, which is treated as a petition under 37 CFR 1.78(a)(3), to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the Application Data Sheet filed with the petition.

The petition is **GRANTED**.

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

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

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

It is noted that although the amendment filed with the present petition does not properly reference the prior-filed application, the petition is also accompanied by an Application Data Sheet which properly references the prior-filed application and states the relationship of the prior-filed application to the subject application.

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

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

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

This application is being forwarded to Technology Center Art Unit 2629 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed application.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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United States Patent and Trademark Office
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APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/361,095	02/06/2003	2629	842	1788-8-3	43	8

CONFIRMATION NO. 3315

CORRECTED FILING RECEIPT

OC000000023426538

Bryan A. Santarelli
GRAYBEAL JACKSON HALEY LLP
Suite 350
155 - 108th Avenue NE
Bellevue, WA 98004-5973

Date Mailed: 04/18/2007

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)

Gerard de Wit, Culemborg, NETHERLANDS;
John R. Lewis, Bellevue, WA;
Bernie Murray, Seattle, WA;
Clarence T. Tegreene, Redmond, WA;

Assignment For Published Patent Application

Microvision, Inc.

Power of Attorney:

Bryan Santarelli--37560

Domestic Priority data as claimed by applicant

This application is a CIP of 09/129,739 08/05/1998 PAT 6,583,772

Foreign Applications

If Required, Foreign Filing License Granted: 03/20/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/361,095

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Display system and method for reducing the magnitude of or eliminating a visual artifact caused by a shift in a viewer's gaze

Preliminary Class

345

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING

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

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

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign 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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1279 OAKMEAD PARKWAY
SUNNYVALE CA 94085-4040

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OFFICE OF PETITIONS

In re Application of	:	
GROVE, Michael et al.	:	
Application No. 10/361,099	:	DECISION ON PETITION
Filed: February 05, 2003	:	TO WITHDRAW
Attorney Docket No. **6376P001**	:	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, 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 Kevin G. Shao 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 Michael Grove at the address indicated below.

There are no outstanding office actions at this time.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **MICHAEL GROVE**
228 ELWOOD STREET
REDWOOD CITY, CA 94062

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OFFICE OF PETITIONS

Michael de Angeli
60 Intrepid Lane
Jamestown RI 02835

In re Application of	:	
Stephen S. Eaves	:	
Application No. 10/361,110	:	DECISION ON PETITION
Filed: February 7, 2003	:	PURSUANT TO
Attorney Docket Number: MEO-001.01	:	37 C.F.R. § 1.137(B)
Title: SYSTEMS AND METHODS FOR CONSTRUCTING A BATTERY	:	

This is a decision on the petition filed December 27, 2007, pursuant to 37 C.F.R. § 1.137(b)[1], to revive the above-identified application.

The petition under 37 C.F.R. § 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R § 1.113 in a timely manner to the final Office action mailed April 3, 2007, which set a shortened statutory period for reply of three months. An after-final amendment was received on June 19, 2007, and an advisory action was mailed on November 13, 2007. No extensions of time

1 A grantable petition pursuant to 37 C.F.R § 1.137(b) must be accompanied by:
(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

under the provisions of 37 C.F.R § 1.136(a) were obtained, and no further responses were received. Accordingly, the above-identified application became abandoned on July 4, 2007. A notice of abandonment was mailed on December 10, 2007.

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 present petition varies from the language required by 37 C.F.R. § 1.137(b)(3), the statement contained in the present 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 present petition.

With this petition, Petitioner has submitted the petition fee, a Request for Continued Examination (RCE) along with the associated fee, and a statement that is being construed as the proper statement of unintentional delay. No terminal disclaimer is required.

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the submission under 37 C.F.R. § 1.114 - the amendment filed on June 19, 2007 - can be processed.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[2]. All other inquiries concerning the status of the application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

---

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 any further action(s) of Petitioner.

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ROBERT B. O'ROURKE
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1026

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OFFICE OF PETITIONS

In re Application of :
Stephen Greer :
Application No. 10/361,131 : NOTICE
Filed: February 5, 2003 :
Attorney Docket No. 5043P022C

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

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DEC 26 2007

KLARQUIST SPARKMAN, LLP
121 SW SALMON STREET
SUITE 1600
PORTLAND OR 97204

In re Application of :
Hong Luo et al :
Serial No.: 10/361,160 : PETITION DECISION
Filed: February 7, 2003 :
Attorney Docket No.: 6882-64654-01 :

This is a decision on the PETITION FOR ACCEPTANCE OF COLOR DRAWINGS UNDER 37 CFR 1.84(a)(2). The petition was filed November 23, 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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OFFICE OF PETITIONS

In re Application of :
Vincent Gueret et al :
Application No. 10/361,166 : ON PETITION
Filed: February 7, 2003 :
Attorney Docket No. SERIE 5911 :

This is a decision on the petition, filed October 12, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

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

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

The examiner of Technology Center AU 1724 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

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

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Paper No. _____

Date : October 13, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Vincent Gueret et al
Application No. :10/361,166
Filed :February 7, 2003

The above-identified application has been assigned Patent No. 6,958,086 and an issue date of October 25, 2005.

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

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of 6,958,086:

"All reference to Patent No. 6,958,086 to Vincent Gueret et al of France for USE OF AN ADSORBENT IN SOLID FOAM FORM FOR THE PURIFICATION OR SEPARATION OF GASES appearing in the Official Gazette of October 25, 2005 should be deleted since no patent was granted."

Karen Creasy

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

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

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ROBERT J. SCHAAP
Suite 188
21241 Ventura Boulevard
Woodland Hills CA 91364

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JUN 2 5 2003

OFFICE OF PETITIONS

In re Application of
Lechuga
Application No. 10/361,193
Filed: February 6, 2003
Attorney Docket No. N/A
For: UNITARY PIPE COVER ASSEMBLY FOR UNDERSINK PIPES

DECISION DISMISSING PETITION

This is a decision on the petition, filed May 27, 2003, requesting that figures 5a, 26a, 29 and 30 be accorded a filing date of February 6, 2003.

The application was filed on February 6, 2003. On March 26, 2003, the Office of Initial Patent Examination mailed a " Notice of Omitted Item(s) in a Nonprovisional Application" (Notice) informing petitioner that figures 5a, 26a, 29 and 30 appeared to have been omitted.

In response to the Notice, petitioner timely filed the present petition. Petitioner requests that that Office accord a February 6, 2003 filing date for figures 5a, 26a, 29 and 30 on the basis that the allegedly omitted figures were received in the Patent and Trademark Office (PTO) on February 6, 2003. In support, the petition is accompanied by declarations of the attorney of record and an office administrator who both reviewed the application and attest to the fact that figures 5a, 26a, 29 and 30 were present.

The declarations by counsel and office administrator submitted with the petition state without equivocation or doubt that they each checked the assembled application papers to determine that the application included all figures.

The Office file is the official record of what was mailed by Express Mail or filed on February 6, 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. In this regard, declarations by individuals involved in the preparation and mailing of the original application reciting their personal recollection or belief of what was contained in the application that they reviewed and/or mailed are no more persuasive of what was actually mailed than the contents of the official record. Such declarations, as in this case, are usually made months after the actual events recited. In this case, the declarations supplied on May 20, 2003, were made more than three (3) months after the application was actually mailed.

It is for this reason that the Office has established a practice of providing a receipt for papers filed in the Office to any applicant desiring a receipt. The practice, which was long ago established and is well publicized, 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).

To reiterate, a properly itemized return postcard constitutes *prima facie* evidence that the items were filed on the date stamped thereon. However, a postcard receipt will not serve as *prima facie* evidence of receipt of any item which is not adequately itemized on the postcard. MPEP 503.

Petitioner is urged to submit his date stamped itemized postcard receipt.

Since figures 5a, 26a, 29 and 30 were not among the papers filed on February 6, 2003, the application cannot be accorded a February 6, 2003 filing date with figures 5a, 26a, 29 and 30 as part of the original disclosure of this application.

The petition is **DISMISSED**.

If petitioner is unable to submit a properly itemized return postcard, petitioner should file an amendment canceling the references to Figures 5a, 26a, 29 and 30 in the specification and renumbering the drawing figures prior to the first Office action in order to avoid further delays in the examination of the application.

Of course, applicant may submit figures 5a, 26a, 29 and 30 in the form of an amendment (see 37 CFR 1.121) to the drawings in which case the examiner will determine whether or not the figures contain new matter compared to the original specification filed on February 6, 2003.(see MPEP 608.02(h)).

The application is being returned to Technology Center 3700 for examination in due course with a filing date of February 6, 2003. The two sheets of drawings containing figures 5a, 26a, 29 and 30, submitted with the instant petition will **not** be considered part of the original filing.

Any inquiries pertaining to this matter may be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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4 VENTURE, SUITE 300
IRVINE, CA 92618

Mail Date: 04/21/2010

Applicant	: Kirk Leppard	: DECISION ON REQUEST FOR
Patent Number	: 7256881	: RECALCULATION of PATENT
Issue Date	: 08/14/2007	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/361,204	: OF WYETH
Filed	: 02/07/2003	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

COPY MAILED

JUL 23 2007

OFFICE OF PETITIONS

In re Application of :
Kelly et al. :
Application No. 10/361,220 : DECISION ON PETITION
Filed: February 10, 2003 :
Attorney Docket No. CHI-858 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 27, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before March 8, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed December 8, 2006. Accordingly, the date of abandonment of this application is March 9, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1400.00 and the publication fee of $300.00, (2) the petition fee of $1500.00; and (3) a proper statement of unintentional delay. The submission of the RCE with amendment, IDS, and other statements is noted. All required fees (petition fee, issue fee, publication fee, and RCE fee) have been charged to petitioner's deposit account 10-0750 as requested in the petition.

Telephone inquiries concerning this decision should be directed to Christopher Bottorff at (571) 272-6052 or in his absence, the undersigned at (571) 272-7099.

This application is being referred to Publishing Division for consideration.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/361,250	02/10/2003	Mohammad Peyravian	RP920020116US1	3751

30449 7590 12/19/2007

SCHMEISER, OLSEN & WATTS
22 CENTURY HILL DRIVE
SUITE 302
LATHAM, NY 12110

EXAMINER	
GEE, JASON KAI YIN	

ART UNIT	PAPER NUMBER
2134	

MAIL DATE	DELIVERY MODE
12/19/2007	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

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United States Patent and Trademark Office
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MAILED

DEC 19 2007

TECHNOLOGY CENTER 2100

Jack Friedman
Schmeiser, Olsen & Watts
22 Century Hill Drive-Suite 302
Latham, NY 12110

In re Application of:
Mohammad Peyravian et al
Application No. 10/361,250
Filed: February 10, 2003
For: Method for Distributing and Authenticating Public Keys using Hashed Password Protection

DECISION ON PETITION
UNDER 37 C.F.R. § 1.181

This is a decision on the petition filed September 19, 2007 under 37 CFR § 1.181 to invoke Supervisory Authority of the Commissioner and require the Examiner to withdraw the finality of the rejection mailed July 16, 2007.

The Applicant's counsel filed a petition to the Director under 37 CFR § 1.181 to seek relief from actions of the Examiner in relation to the Final Office Action July 16, 2007. In the petition, Applicant's counsel alleged that the finality of the office action was improper because the Examiner introduced a new ground of rejection in the Final Office Action that was neither necessitated by applicant's amendment of the claims nor based on information submitted in an Information Disclosure Statement.

A review of the file indicates that no IDS was submitted to cause the new grounds of rejection. While no amendment was filed between the April 16th, 2007 rejection and the Final office action of July to necessitate a new grounds of rejection for claims 9 and 11 as raised by petitioner, the Final office action of July 16, 2007 vacated the final action of April 16th, 2007, and therefore the February 1, 2007, amendment adding new claims 9 and 11 would justify changing the grounds of rejections for those claims and the finality of July would be proper. However in reviewing the rejections of claims 9 and 11 in deciding this petition one must look at the rejections of the claims that claims 9 and 11 depend on. With the rejection of April 16, 2007 vacated, the grounds of rejection for claim 1 was changed that was not necessitated by amendment and, therefore the finality of the August 10, 2007 office action is improper and hereby withdrawn.

Accordingly, the petition is **GRANTED.**

The application is being forwarded to the technical support staff for entry of the after final amendment and then to the examiner for further prosecution.

Any inquiry concerning this decision should be directed to Tod Swann at (571) 272-3612.

Jack Harvey
Director
Technology Center 2100
Computer Architecture, Software, and
Information Security

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 5

MOSER, PATTERSON & SHERIDAN, LLP
SUITE 100
595 SHREWSBURY AVENUE
SHREWSBURY, NJ 07702

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JUN 2 4 2003

OFFICE OF PETITIONS

In re Application of :
Gupta, et al. :
Application No. 10/361,256 : ON PETITION
Filed: February 10, 2003 :
Attorney Docket No. Gupta 9-2-2-19-1-2 :

This is a decision on the papers styled, "Petition For Acceptance Of Figures 16-17 Described In Specification In Response To Notice To File Corrected Application Papers," filed on May 19, 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 February 10, 2003, including Figures 16 and 17, as described in the specification.

The application was filed on February 10, 2003. However, on May 8, 2003, the Office of Initial Patent Examination (OIPE) mailed a "Notice To File Corrected Application Papers" (Notice) that stated the application had been accorded a filing date, but Figures 16-17 as described in the specification appear to have been omitted.

In response, on May 19, 2003, the instant petition and a copy of Figures 16-17 as described in the specification were submitted. The papers were accompanied by a copy of applicant's postcard receipt that acknowledges receipt of thirteen (13) sheets of informal drawings on February 10, 2003. The thirteenth sheet of drawings contains Figures 16-17. A review of the application file indicates the presence of only twelve (12) sheets of drawings with the sheet containing Figures 16-17 missing. It is assumed that missing sheet of drawings containing Figures 16-17 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 to deposit account no. 20-0782.

This application will be returned to OIPE for further processing with a filing date of February 10, 2003, using the copy of Figures 16-17 as described in the specification, supplied on May 19, 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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ALLEN R. KIPNES
WATOV & KIPNES, P.C.
P.O. BOX 247
PRINCETON JUNCTION, NJ 08550

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SEP 15 2004

OFFICE OF PETITIONS

In re Application of :
Faust, et al. :
Application No. 10/361,265 : ON PETITION
Filed: February 10, 2003 :
Attorney Docket No. A0000056-07-LAV :

This is a decision on the petition under 37 CFR 1.137(b), filed July 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 October 28, 2003. Accordingly, this application became abandoned on January 29, 2004. A Notice of Abandonment was mailed on June 3, 2004.

The two-month period for filing an appeal brief in triplicate (accompanied by the fee required by 37 CFR 1.17(c)), runs from the date of this decision.

The file is being forwarded to Technology Center 1600.

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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Paper No. 5

James J. Murphy, Esq.
Winstead Sechrest & Minick
5400 Renaissance Tower
1201 Elm Street
Dallas TX 75270

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MAY 15 2003

OFFICE OF PETITIONS

In re Application of
GUBBI et al.
Application No. 10/361,318
Filed: February 10, 2003
Attorney Docket No. 003498.p014
(P249P1)

: DECISION GRANTING PETITION

This is a decision on the petition filed on April 17, 2003, requesting that the above-identified application be accorded a filing date of February 10, 2003, with 55 pages of specification, claims and abstract.

On February 10, 2003, applicants deposited the above-identified application. However, on March 19, 2003, the Office mailed a "Notice Of Incomplete Application," requiring a complete specification and stating that the filing date would be the date of receipt of the omitted specification. In response, applicants filed, inter alia, the present petition, a second preliminary amendment, a copy of the specification, claims, abstract and drawings, and a declaration, which was filed in the parent application. Applicants acknowledge that the application was submitted without a complete specification.

A search of the official file reveals that on February 10, 2003, applicants submitted a "Utility Patent Application Transmittal" which stated that the application is a continuation of prior application No. 09/151,579 and that the entire disclosure from the prior application is incorporated by reference.

Section 201.06(c) of the Manual for Patent Examining Procedure permits the entering of a portion of the prior application into a continuation or divisional application when the portion of the prior application was inadvertently omitted from the continuation or divisional application. Based on applicants' representation that the papers supplied with the petition constitute a copy of the prior application, and the incorporation by reference statement appearing in Transmittal deposited on February 10, 2003, it is appropriate, on petition, to accord the application the requested filing date.

The petition is **granted**.

The application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of February 10, 2003, using the specification submitted with the present petition.

Telephone inquiries specific to this matter should be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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MAILED

JAN 22 2004

JAN 22 2004

OFFICE OF THE DIRECTOR
TC 3600

Paper No. 7

In re Application of MILILLO ET AL.
Appl. No.: 10/361,345
Filed: February 07, 2003
For: Finishing device having a sheet guiding and buffering mechanism

WITHDRAWAL FROM ISSUE
37 CFR 1.313

The purpose of this communication is to inform you that the above identified application is being withdrawn from issue pursuant to 37 CFR 1.313.

The application is being withdrawn to permit reopening of prosecution. The reasons therefor will be communicated to you by the examiner.

U.S. Patent and Trademark Office records reveal that the issue fee and the publication fee have not been paid. If the issue fee and the publication fee have been submitted, the applicant may request a refund, or may request that the fee be credited to a deposit account. However, applicant may wait until the application is either again found allowable or held abandoned. If the application is allowed, upon receipt of a new Notice of Allowance and Issue and Publication Fee Due, applicant may request that the previously submitted issue fee and publication fee be applied toward payment of the issue fee and publication fee in the amount identified on the new Notice of Allowance and Issue and Publication Fee Due. If the application is abandoned, applicant may request either a refund or a credit to a specified Deposit Account.

The application is being forwarded to the examiner for action.

Bob Oberleitner
Director
Patent Examining Technology Center 3600

Patent Documentation Center
Xerox Corporation
Xerox Square 20th Floor
100 Clinton Ave. S.
Rochester, NY 14644

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 7/6/09

Paper No.: ____

TO SPE OF : ART UNIT ____

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/361352 Patent No.: 6938988B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (C of C)
Randolph Square 9D62-B
Palm Location 7580

Virginia Tolbert
Certificates of Correction Branch
703-756-1591

Thank You For Your Assistance

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

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

Comments: Error

STEPHEN MEIER
SUPERVISORY PATENT EXAMINER

SPE 2853 **Art Unit**

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

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JUN 20 2008

In re Application of	:	
Nikhil Kothari et al.	:	DECISION GRANTING STATUS
Application No. 10/361,359	:	UNDER 37 CFR 1.47(a)
Filed: February 10, 2003	:	
Attorney Docket No. 13768.358	:	

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

A petition under 37 CFR 1.47(a) requires a fee under 37 CFR 1.17(g) that is $200. However, the petitioner has paid a fee of $130 under 37 CFR 1.17(h) on August 19, 2003. The balance of $70 has been charged to the Deposit Account 23-3178 as authorized in Transmittal letter filed February 10, 2003.

The 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 37 CFR 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This application is being referred to the Office of Data Management for further processing.

Telephone inquiries regarding this decision should be directed to Ramesh Krishnamurthy at (571) 272-4914.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Susan M. Warren
10809 Snoqualmie Valley NE
Carnation, Washington 98014

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JUN 20 2008

In re Application of
Nikhil Kothari, Andrew C. Lin, Scott D. Guthrie and Susan M. Warren
Application No. 10/361,359
Filed: February 10, 2003
For: INTEGRATED DEVELOPMENT ENVIRONMENT ACCESS TO REMOTELY LOCATED COMPONENTS

Dear Ms. Warren:

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 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 Ramesh Krishnamurthy at (571) 272 - 4914. 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 (571) 272-3150 or 1 (800) 972-6382 (outside the Washington, DC area).

David Bucci
Petitions Examiner
Office of Petitions

cc: JENS C. JENKINS
WORKMAN NYDEGGER/MICROSOFT
1000 EAGLE GATE TOWER
60 EAST SOUTH TEMPLE
SALT LAKE CITY UT 84111

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BAKER & DANIELS
111 E. WAYNE STREET
SUITE 800
FORT WAYNE, IN 46802

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APR 25 2006
OFFICE OF PETITIONS

In re Application of :
Gunter Bauer et al :
Application No. 10/361,402 : ON PETITION
Filed: February 10, 2003 :
Attorney Docket No. WEI0069 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed April 24, 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 April 3, 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 Wan Laymon at (571) 272-3220.

This application is being referred to Technology Center AU 3754 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Wan Laymon
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Paper No. 6

James J. Murphy, Esq.
Winstead Sechrest & Minick
5400 Renaissance Tower
1201 Elm Street
Dallas, TX 75270

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JUL 3 0 2003

OFFICE OF PETITIONS

In re Application of :
Persiantsev :
Application No. 10/361,416 : ON PETITION
Filed: February 10, 2003 :
Atty. Dkt. No.: 03498.p019 :
(p262p1x2) :

This is a decision on the petition under 37 CFR 1.182, filed February 10, 2003, requesting that the specification submitted herewith be admitted by preliminary amendment and that the application maintain a filing date of February 10, 2003.

The application was submitted February 10, 2003 as a continuation of U.S. application No. 09/178,284. A Notice of Incomplete Nonprovisional Application was mailed March 26, 2003 by the Office of Initial Patent Examination. The Notice indicated, *inter alia*, that the application had not been accorded a filing date because the application was filed without a specification in accordance with 35 USC 112.

In response to the Notice, petitioner has submitted the omitted specification upon petition and indicates that the specification was inadvertently omitted from the application filing. Petitioner further argues that the omitted items were incorporated by reference into the continuation application.

Petitioner requests, in effect, that the specification be entered into the record by preliminary amendment and that the application be accorded a filing date of December 17, 2002.

An incorporation by reference statement may 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. *See*, MPEP 201.06(c).

Accordingly, in view of the incorporation by reference of the prior application, the specification is not new matter if the content thereof was part of the disclosure of the prior application.

The petition fee submitted herewith will not be refunded since the petition under 37 CFR 1.182 was filed to correct petitioner's filing error.

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

The correspondence address contained in the instant petition differs from the correspondence address currently of record in this application. Hence, if petitioner desires to receive future correspondence regarding this application the appropriate documentation must be submitted. **Petitioner is advised that all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.**

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of February 10, 2003. Thereafter, the application will be forwarded to the appropriate group art unit for consideration by the examiner of the preliminary amendment requesting the entry of the specification.

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

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

CC: JAMES J. MURPHY
P.O. 50784
1201 MAIN STREET
DALLAS, TX 75250-0784

ERICSSON

OIPE JC10 OCT 23 2003 PATENT & TRADEMARK OFFICE

0440

EUS/J/P/03-6070

October 14, 2003

VIA FIRST CLASS MAIL

Examiner Ian J. Lobo
United States Patent and Trademark Office
Licensing and Review Department
Washington D.C., 20231

Re: Patent Application for:
"Microswitch with a Micro-Electromechanical System"
Serial No. 10/361,418
Attorney Docket No. P16454-US1

Dear Examiner:

Enclosed for filing please find the following items relating to the above-identified application:

(1) Response to the Examiner's Decision on Request Under 37 CFR 5.25. (3 pages)
(2) Attached Exhibit 1 (tabs A-F) (6 pages)
(3) USPTO mailing envelope date stamped 10/06/2003
(4) Copy of Petition Decision
(5) Copy of EP Application No. 02002963 filed on February 11, 2002

There is no additional fee for this filing. The commissioner is hereby authorized to charge payment of any additional filing fees required associated with this communication or credit any overpayment to Deposit Account No. 50-1379.

If you have any questions or comments concerning this matter, please feel free to contact the undersigned at 972-583-7686.

Sincerely,

John C. Han
Associate General Counsel-IPR

JCH/ps

Ericsson Inc.
6300 Legacy Drive
Plano, Texas 75024

BSI REGISTERED
FM11374 EUS
ISO 9001

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
01/303,919	**01-Aug-03**	**MICHAEL MEIXNER, ET AL.**	**P16454-US1**

Title: MICROSWITCH WITH A MICRO-ELECTROMECHANICAL SYSTEM

Art Unit	Paper Number

Correspondence Address:
JOHN C. HAN
ERICSSON INC.
6300 LEGACY DRIVE
M/S EVW 2-C-2
PLANO, TEXAS 75024

PATENT & TRADEMARK OFFICE
MAILED
AUG 29 2003
LICENSING & REVIEW

Please find attached a communication from the Examiner regarding the Petition for Retroactive License under 37 CFR 5.25.

RECEIVED
OCT 09 2003
EUS LEGAL DEPT.

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

John C. Han
Ericsson Inc.
6300 Legacy Drive
M/S EVW 2-C-2
Plano, Texas 75024

In re:	Meixner et al	:	DECISION ON REQUEST
Serial No.:	01/303,919	:	UNDER 37 CFR 5.25
Filing date:	n/a		
Docket No:	P16454-US1		

Title: MICROSWITCH WITH A MICRO-ELECTROMECHANICAL SYSTEM

This is a decision on the petition filed on August 01, 2003 for retroactive foreign filing license.

37 CFR 5.25(a) requires the following:

1. A listing of each of the foreign countries in which the unlicensed patent application material was filed,
2. The dates on which the material was filed in each country,
3. A verified statement (oath or declaration) containing:
   i. An averment that the subject matter in question was not under a secrecy order at the time it was filed abroad, and that it is not currently under a secrecy order,
   ii. A showing that the license has been diligently sought after discovery of the proscribed foreign filing, and
   iii. An explanation of why the material was filed abroad through error and without deceptive intent without the required license under § 5.11 first having been obtained, and
4. The required fee (§ 1.17(h)).

The petition is **Denied** at this time in that the petition is defective since the requirements set forth in 37 C.F.R. 5.25(a)(3)(ii-iii) have not been met.

First, it is pointed out that the instant petition has not been filed with a copy of the EP application, as required.

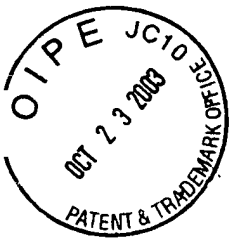
Second, the statements of error with respect to the proscribed filing, must be supported by facts. The statements should not be merely conclusionary. The instant petition includes a declaration by Fredy Strohm. However, the declaration fails to fully provide any details of discovery of the supposed error and more specifically when the proscribed filings were discovered. Without such factual information (i.e, dates, letters of transmittal, instructions for filing, etc.) as to the discovery

of the proscribed filing, a question of diligence is raised.

Accordingly, the provisions of 37 CFR 5.25 not having been fully met, the petition is denied, and in the absence of any response within **60 days** of the mailing date of this letter, such denial will be made final and the final action under 35 U.S.C. 185 will be taken. Extensions of time may be had under 37 C.F.R. 1.136(a).

Ian J. Lobo
Patent Examiner
(703) 306-4161

October 14, 2003



Examiner Ian J. Lobo
United States Patent and Trademark Office
Licensing and Review Department
Washington D.C., 20231

In Re: Meixner et al.
Serial No. 10/361,418
Filed Date: February 10, 2003

Title: Microswitch with a Micro-Electromechanical System

Response to the Examiner's Decision on Request Under 37 CFR 5.25.

This is in response to the Examiner rejection of Applicants' request for a retroactive license under 37 CFR 5.25 filed on February 10, 2003. Applicants respectfully submit that the Examiner has placed an incorrect serial number (01/303,919) and the filing date (August 1, 2003) on the Rejection letter. Furthermore, Applicants submit that the mailed Rejection Letter was not received by the Applicant until October 9, 2003 when it was allegedly mailed on or around August 29, 2003 by the USPTO. Applicants further submit that the time stamp shown on the USPTO envelop also shows October 6, 2003 as the mailing date of this communication. Accordingly, as also discussed with the Examiner via telephone on October 14, 2003, Applicants respectfully submit that Applicants have until sixty (60) days from October 6, 2003 to cure any defects that may be associated with this Petition.

In rejecting the Petition for a Retroactive License, the Examiner stated that:

(i) the instant petition was not filed with a copy of the EP application, as required; and

(ii) the statements of error with respect to the proscribed filing, must be supported by facts. The instant petition includes a declaration by Fredy Strohm. However, the declaration fails to fully provide any details of discovery of the supposed error and more specifically when the proscribed filings were discovered. Without such factual information (i.e., dates, letters of transmittal, instructions for filings, etc) as to the discovery of the proscribed filing, a question of diligence is raised.

Applicants extremely appreciate the Examiner's comments and would like to offer the following remarks.

In regards to the copy of the EP application, Applicants hereby submit a copy of the published EP application (appl. no. 02002963 filed on February 11, 2002).

In regard to the Examiner's statement regarding the lack of factual information as to the discovery of the proscribed filing, Applicants respectfully submit copies of the email correspondences between Ericsson patent staff showing the following events.

January 24, 2003: Mr. Fredy Strohm of Ericsson Germany (EED) sent an email correspondence to another patent staff within Ericsson stating that "[t]he invention is an outcome from a former project between IBM and EED. At the time of filing the EP prio application, the inventor told me that it is a sole invention from EED. Now it seems that also inventors from IBM are involved." (Tab A of Exhibit 1). Mr. Fredy Strohm further stated in his Affidavit (filed with the Petition) that he discovered this error while evaluating the EP application for a foreign filing decision (12 month filing decision).

January 27, 2003: Mr. Fredy Strohm then consulted with another Ericsson patent manager (Mr. Peter Ericsson-Nestler) that there were indeed IBM inventors that needed to be included for this particular EP application. (Tab B).

January 30, 2003: Mr. Fredy Strohm then contacted IBM for confirmation and then stated to Mr. Peter Ericsson-Nestler that "IBM wants to be joint applicant!!!! An official announcement will come today (night). Please check with your lawyers!!!" (Tab C).

January 31, 2003: Mr. Fredy Strohm then contacted the undersigned (John Han, U.S. Attorney for the Applicants) to discuss the situation and the filing rules regarding USPTO. During this discussion, the undersigned suggested that Ericsson should concurrently file a PCT (without the U.S.) and a U.S. application while submitting a Petition for Retroactive license. Such understanding was later summarized by Mr. Fredy Strohm in his email to other Ericsson employees dated February 3, 2003. (Tab D).

February 3, 2003: Mr. Fredy Strohm then provided my office with the necessary filing papers. (Tab E).

February 6, 2003: Mr. Fredy Strohm provided this office with the necessarily wording of the filed Affidavit. (Tab F).

February 10, 2003: This office then filed the presently pending application with the USPTO with a Petition for Retroactive License.

Applicants respectfully submit that after the discovery of the proscribed foreign filing sometime in January of 2003 by Mr. Fredy Strohm, Applicants have

diligently sought a license under 37 CFR 5.25 and have filed the Petition in early February of 2003. Accordingly, with the factual evidence provided above, Applicants believe adequate showing of diligence in seeking a license from the USPTO has been established.

Applicants request Examiner's favorable reconsideration in view of the above remarks and submitted exhibit. If the Examiner requires additional information, please do not hesitate to contact the undersigned at 972-583-7686.

Respectfully Submitted,

John C. Han
41,403

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

JUL 1 2003

UR
PAPER NO. 4

In re Application of :
Gary G. Teng :
Serial Number: 10/361,436 : PETITION UNDER
Filed: February 10, 2003 : M.P.E.P.708.02,V
For: ON –PRESS DEVELOPMENT OF :
THERMOSENSITIVE LITHOGRAPHIC PRINTING :
MEMBER :

This is in response to the petition filed, February 10, 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

Gary G. Teng
10 Kendall Dr.
Northborough, MA 01532

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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YING CHEN
CHEN YOSHIMURA, LLP
255 S. GRAND AVE.
#215
LOS ANGELES, CA 90012

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OFFICE OF PETITIONS

In re Application of	:	
Lawrence John Dickson	:	
Application No. 10/361,446	:	DECISION GRANTING PETITION
Filed: February 10, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 85032.0006	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed December 10, 2007, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 9, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2194 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Frances Hicks

Frances M. Hicks
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. None

GARLICK HARRISON & MARKISON LLP
P.O. BOX 160727
AUSTIN TX 78716-0727

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MAY 2 4 2006

OFFICE OF PETITIONS

In re Application of :
Masood U. Syed :
Application No. 10/361,464 : DECISION ON PETITION
Filed: February 10, 2003 : UNDER 37 C.F.R. §1.137(A)
Attorney Docket Number: BP 2628 :
Title: REDUCED POWER CONSUMPTION :
FOR EMBEDDED PROCESSOR :

This is a decision on the petition filed March 22, 2006, pursuant to 37 C.F.R. §1.137(a)[1], to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed September 16, 2005, which set a shortened statutory period for reply of three (3) months. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on December 17, 2005.

With the present petition, Petitioner has asserted that a response to this communication was submitted on January 16, 2006. Petitioner has submitted a copy of this submission, and it is noted that it contains a certificate of facsimile transmission dated January 16, 2006. It is further noted that the submission contains a blanket authorization to charge any deficient fees to Petitioner's Deposit Account and therefore, a one-month extension of time could have been charged to Petitioner's Deposit Account in order to make this response timely, had it been received.

---

1 A grantable petition pursuant to 37 CFR §1.137(a) must be accompanied by:

(1) the required reply (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;

(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable, and;

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

Considering the facts and circumstances of the delay at issue, as set forth on petition, it is concluded that petitioner has met his burden of establishing that a submission was timely submitted.

As such, Petitioner has established that the entire period of delay was unavoidable. Petitioner has further submitted the petition fee and a copy of the required reply which was originally submitted on January 16, 2006. A terminal disclaimer is not required.

The one-month extension of time has been charged to Petitioner's Deposit Account, as authorized in the present petition.

Petitioner has also submitted a three month extension of time. An extension of time under 37 C.F.R. §1.136 must be filed prior to the expiration of the maximum extendable period for reply[2]. Accordingly, since the $ 1020 extension of time submitted with the petition on March 22, 2006 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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ROBERT P. SIMPSON, ESQ.
SIMPSON & SIMPSON, PLLC
5555 MAIN STREET
WILLIAMSVILLE, NY 14221-5406

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DEC 0 5 2005

OFFICE OF PETITIONS

In re Application of :
Juan Alberto Torres et al :
Application No. 10/361,465 : DECISION ON PETITION
Filed: February 10, 2003 : TO WITHDRAW
Attorney Docket No. VOCP:102US : 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 7, 2004.

The request is **APPROVED**.

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

The request was signed by Robert P. Simpson on behalf of all attorneys of record.

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 Irvin Dingle at (571) 272-3210.

Denise Pothier
Petitions Examiner
Office of Petitions

cc: Dr. Victor Demjanenko
Vocal Technologies, Ltd.
200 John James Audubon Parkway
Buffalo, NY 14228

UNITED STATES PATENT AND TRADEMARK OFFICE

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HUSCH & EPPENBERGER
190 CARONDELET PLAZA
SUITE 600
ST. LOUIS MO 63105-3441

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SEP 3 0 2005

OFFICE OF PETITIONS

In re Application of :
Robert J. McMillen et al :
Application No. 10/361,475 : ON PETITION
Filed: February 10, 2003 :
Attorney Docket No. 41575-192 CIP (198) :

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

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

The examiner of Technology Center AU 3636 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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P.O. Box 1450
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David A. Hall
Heller, Ehrman, White & McAuliffe, LLP
7th Floor
4350 La Jolla Village Drive
San Diego, CA 92122-1246

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SEP 27 2005

OFFICE OF PETITIONS

In re Application of :
Michael Streichsbier, et. al. :
Application No. 10/361,485 : ON PETITION
Filed: February 5, 2003 :
Attorney Docket No. 38578-0010 :

This is a decision on the paper styled "Petition under 37 CFR 1.08(b) to Accept USPS Deposit Date as Correspondence Filing Date," filed by facsimile transmission on March 25, 2005, which is being treated as a petition under 37 CFR 1.181.

The petition is **GRANTED**.

A review of the file record discloses that a non-final Office action, which set a three month shortened statutory period for reply, was mailed on July 28, 2004. The record fails to disclose receipt of a reply within the time period set. However, petitioner asserts that a response was in fact timely filed on October 28, 2004, using the Certificate of Mailing procedure under 37 CFR 1.8. In support, petitioner has submitted copies of the previously mailed correspondence, bearing a certificate of mailing date of October 28, 2004, which would have made the reply timely filed within the three month shortened statutory period set in the July 28, 2004 Office action. Petitioner has also supplied a copy of a stamped returned postcard which acknowledges receipt of the following items in the USPTO on November 2, 2004: "Amendment Transmittal Form, 1 page in duplicate); Response to Office Action and Request for Reconsideration, 16 pages; This Postcard, check in the amount of $81.00." While, as stated above, the reply acknowledged as having been received in the USPTO on November 2, 2004, cannot be located, Office database finance records disclose receipt of the $81 check on November 2, 2004.

MPEP 503 states that "A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO." Accordingly, it is concluded that the reply was timely received but misplaced after receipt in the USPTO.

In view of the above, the reply to the non-final Office action of July 28, 2004 is accepted as having been timely mailed via certificate of mailing on October 28, 2004 and received in the USPTO on November 2, 2004, as acknowledged by the date stamped postcard receipt.

The copy of the reply received with the petition will be accepted in place of the reply acknowledged as having been received in the USPTO on November 2, 2004.

This application is being referred to Technology Center Art Unit 3747 for appropriate action.

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

Frances Hicks
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 NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/361,515	02/10/2003	Mohammad Peyravian	RSW920030017US1	6830

30449 7590 12/19/2007
SCHMEISER, OLSEN & WATTS
22 CENTURY HILL DRIVE
SUITE 302
LATHAM, NY 12110

EXAMINER	
GEE, JASON KAI YIN	

ART UNIT	PAPER NUMBER
2134	

MAIL DATE	DELIVERY MODE
12/19/2007	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.

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TECHNOLOGY CENTER 2100

Jack Friedman
Schmeiser, Olsen & Watts
22 Century Hill Drive-Suite 302
Latham, NY 12110

In re Application of:
Mohammad Peyravian et al
Application No. 10/361,515
Filed: February 10, 2003
For: Method for Distributing and Authenticating Public Keys using Time Ordered Exchanges

DECISION ON PETITION
UNDER 37 C.F.R. § 1.181

This is a decision on the petition filed September 19, 2007 under 37 CFR § 1.181 to invoke Supervisory Authority of the Commissioner and require the Examiner to withdraw the finality of the rejection mailed July 16, 2007.

The Applicant's counsel filed a petition to the Director under 37 CFR § 1.181 to seek relief from actions of the Examiner in relation to the Final Office Action July 16, 2007. In the petition, Applicant's counsel alleged that the finality of the office action was improper because the Examiner introduced a new ground of rejection in the Final Office Action that was neither necessitated by applicant's amendment of the claims nor based on information submitted in an Information Disclosure Statement.

A review of the file indicates that no IDS was submitted to cause the new grounds of rejection. While no amendment was filed between the November 2, 2006 rejection and the Final office action of July to necessitate a new grounds of rejection for claims 10 and 12 as raised by petitioner, the Final office action of July 16, 2007 vacated the final action of April 16th, 2007, and the November 2, 2006 action and therefore the June 16, 2006, amendment adding new claims 10 and 12 would justify changing the grounds of rejections for those claims and the finality of July would be proper.

Accordingly, the petition is **Dismissed.**

Any inquiry concerning this decision should be directed to Tod Swann at (571) 272-3612.

Jack Harvey
Director
Technology Center 2100
Computer Architecture, Software, and
Information Security

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PRESTON GATES ELLIS & ROUVELAS MEEDS LLP
1735 NEW YORK AVENUE, NW, SUITE 500
WASHINGTON DC 20006

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FEB 10 2004

OFFICE OF PETITIONS

In re Application of
Swift
Application No. 10/361,562
Filed: February 11, 2003
For: PREDISPOSITION TO BREAST CANCER BY MUTATIONS AT THE ATAXIA-TELANGIECTASIA GENETIC LOCUS
Attorney Docket No: 48498-00003
Pub. No.: US 2003/0148364 A1
Pub. Date: August 7, 2003

This is a decision on the request for corrected patent application publication under 37 CFR 1.221(b), filed on August 28, 2003 for the above-identified application.

The request is DISMISSED.

The instant request is that the application be republished because the front page of the patent application publication includes two inventors on the front page of the publication that were deleted in the parent application and not included in the inventorship of this application.

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.[1] The instant request does not identify a material mistake in the publication made by the Office:

The errors in including the two extra inventor's names on the front page of the publication are Office errors, but they are not material errors. The errors do not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

To avoid this type of problem in the future, applicant's representative should include an explanation when submitting multiple copies of declarations on filing. Additionally, applicant should make request a corrected filing receipt using the facsimile number (703-746-9195) on the Filing Receipt.

The applicant is advised that a "request for republication of an application previously published"

[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).

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

Any request for republication under 37 CFR 1.221(b), should be submitted via the EFS system and questions or request for reconsideration of this decision, should be addressed as follows:

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

Inquiries relating to this matter may be directed to Mark Polutta at (703) 308-8122 (voice) or (703) 746-3465 (facsimile).

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

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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OFFICE OF PETITIONS

OLIFF & BERRIDGE, PLC
P.O. BOX 19928
ALEXANDRIA VA 22320

In re Application of :
Nobuaki Hasahimto :
Application No. 10/361,566 : ON PETITION
Filed: February 11, 2003 :
Attorney Docket No. 110477.01 :

This is a decision on the petition, filed August 3, 2005, and supplemented on August 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 July 5, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2841 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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Finnegan, Henderson, Farabow,
Garrett & Dunner, L.L.P.
1300 I Street, N.W.
Washington DC 20005-3315

Applicant: Gabin VIC et al.
Appl. No.: 10/361,579
Filing Date: May 11, 2004
Title: DYE COMPOSITION COMPRISING AN OXIDATION BASE OF THE DIAMINOPYRAZOLE TYPE, A CATIONIC OXIDATION BASE, AND A COUPLER
Attorney Docket No.: 5725.1175-00000
Pub. No.: US 2004/0045100 A1
Pub. Date: March 11, 2004

This is a decision on the request for corrected of patent application publication under 37 CFR 1.221(b), filed on May 11, 2004 for the above-identified application.

The request is granted.

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709 (voice)

Shelby Littmon, for

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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BURNS, DOANE, SWECKER & MATHIS, L.L.P.
P.O. Box 1404
Alexandria VA 22313-1404

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APR 13 2004

OFFICE OF PETITIONS

In re Application of :
John R. Arnold, et al. :
Application No. 10/361,584 : ON PETITION
Filed: February 11, 2003 :
Attorney Docket No. 015291-082 :

This is a decision on the petition, filed April 9, 2004, under 37 CFR(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

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

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

The application is being forwarded to Technology Center AU 3749 for further processing of the request for continued examination under 37 CFR 1.114.

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

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

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WENDEROTH, LIND & PONACK LLP
2033 K STREET N.W.
SUITE 800
WASHINGTON DC 20006-1021

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JUL 0 6 2005

OFFICE OF PETITIONS

In re Application of :
Atsushi Nishiwaki et al :
Application No. 10/361,607 : ON PETITION
Filed: February 11, 2003 :
Attorney Docket No. 2003_0166A :

This is a decision on the petition, filed July 1, 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**.

The above-identified application is 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) 272-3208.

This matter is being referred to Files Repository.

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

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JUN - 2 2005

MILLEN, WHITE, ZELANO & BRANIGAN, PC
2300 CLARENDON BLVD
SUITE 1400
ARLINGTON, VA 22201

In re Application of	:
Richard A. Schumaker et al	:
Serial No.: 10/361,634	: PETITION DECISION
Filed: February 11, 2003	:
Attorney Docket No.: MEMORY-1 D1	:

This is in response to the petition under 37 CFR 1.144, filed March 9, 2005, requesting withdrawal of an improper restriction requirement.

BACKGROUND

A review of the file history shows that this application was filed under 35 U.S.C. 111 on February 11, 2003, and contained claims 1-59. In a first Office action, mailed September 11, 2003, the examiner required restriction between the inventions claimed, as follows:

Group I – Claims 1-19, 25, 31, 37-39 and 41-59 (all in part) drawn to compounds, pharmaceutical compositions and method of treating wherein R1 is an alky (sic alkyl) group, R2 is a cycloalkyl, R3 is an arylalkyl and R4 is an aryl group;

Group II – Claims 1-59 (in part) drawn to compounds, compositions and methods of treating where the definitions are different for R1, R2, R3, R4 than those in Group I.

An election of species was also required for Group II.

The examiner reasoned that the inventions were distinct based on the wide variety of definitions for R1-R4 which give rise to many permutations and combinations and a reference anticipating one species would not anticipate or render obvious another. Very old (and no longer relied upon) case law was cited. The examiner also indicated that a telephone interview with Mr. John Saab had been conducted in which the invention of Group I was elected and the species of compound d, page 66, line 11, elected. No prior art on the species was found and applicants were requested to cancel the non-elected subject matter.

Applicants replied on December 11, 2003, amending a number of claims and adding claims 60-86. Applicants traversed the restriction requirement by arguing that all claims are within the

scope of the generic claim and restriction is improper. Applicants argued that the examiner failed to show that the two Groups identified were unrelated or not capable of use together nor why the Groups are not classified together. Further argued was that the division appeared to be arbitrary with no reasons given to justify the division.

The examiner mailed a new Office action to applicants on March 1, 2004, maintaining the restriction requirement maintaining that there was no unity in the core itself. The examiner also argued that merely because they have the same properties they need not necessarily be grouped together. The examiner then added two additional groups to the restriction requirement, restricting Group I to claims 1, 3, 5-6, 8-16, 18, 41-48, 52-56 and 60-86 drawn to compounds, compositions and methods for treating cognition impairment.

Group III was defined as claims 49-51, drawn to other methods of treating.

Group IV was drawn to claim 57 compounds which were indicated as being outside the scope of the compounds of the other claims. The elected claims were indicated as allowable over the prior art.

An interview was held with the examiner on July 22, 2004, but agreement was not reached on all issues.

Applicants filed a formal reply on August 2, 2004, amending claims 18, 41 and 57, and canceling claims 2, 4, 7, 17, 19-40, 50-51 and 58-59. Applicants further traversed the previous and new restriction requirements as improper arguing that the examiner's argument that the core is not novel is in error since there is no requirement that the core be novel, only that the compounds of which the core is a part be novel. Applicants further argued that the examiner's attempts to limit the claims amounted to an improper restriction within a claim or improper rejection. Applicants urged the examiner to follow M.P.E.P. 803.02 in examining a claim in which an election of species has been required.

The examiner mailed a Final Office action to applicants on December 7, 2004, maintaining the withdrawal of claim 57 only. Claims 1, 63-64 (or 68-69) and 83-84 were rejected under 35 U.S.C. 112, first paragraph as lacking enablement, with all other claims being found allowable, but objected to.

Applicants filed a reply to the Office action on March 7, 2005, objecting to the finality of the Office action in view of new rejections made not necessitated by applicants' amendments. Applicants continued the traversal of the restriction requirement, especially with respect to claim 57. Applicants also addressed the rejections of record.

Applicants filed this petition on March 9, 2005, requesting withdrawal of an improper restriction requirement.

DISCUSSION

Applicants' petition sets forth the prosecution history which generally agrees with the above Background statements. Applicants do, however, state that the initial telephone interview requested only an election of species without setting forth any restriction requirement. The

prosecution has now basically resolved the question of restriction or election of species as set forth in the first Office action. The examiner's last Office action dated December 7, 2004, indicates all claims allowable, but objected to without specifying the objection. It appears that the claims are being objected to as depending from rejected base or independent claims and not because of inclusion of non-elected subject matter. It appears that the entire scope of the claims has been examined including where R is alkyl or cycloalkyl. The only claim specifically withdrawn now is claim 57. Claim 57 is identical in scope to claim 1 except for the definition of R^1. However, R^1 is defined as an alkyl group of 1-4 carbons in claim 1 and is restricted to only a methyl group (a one carbon alkyl group) in claim 57. Claim 57 requires that the methyl group have a labeled atom, either carbon or hydrogen, in it. It would be expected that the compounds of claim 57 would be found with the compounds of claim 1 and would also be found in a specific subclass for labeled compounds. Thus the search and examination of claim 57 is significantly coextensive with that for claim 1 and restriction therebetween should not be required.

DECISION

The petition is **GRANTED.** The restriction requirement between claim 57 and the other claims is withdrawn. It appears that the election of species has also been withdrawn by the examiner.

The application will be forwarded to the examiner for consideration of applicants' reply to the Final Office action commensurate with the above decision.

As no petition fee is required for this petition, the petition fee paid of $130.00, will be credited to applicants Deposit Account No. 13-3402, as directed.

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

Bruce M. Kisliuk
Director, Technology Center 1600

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OCT 25 2005

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2300 CLARENDON BLVD
SUITE 1400
ARLINGTON, VA 22201

In re Application of	:
Richard A. Schumaker et al	:
Serial No.: 10/361,634	: PETITION DECISION
Filed: February 11, 2003	:
Attorney Docket No.: MEMORY-1 D1	:

This is in response to a second petition under 37 CFR 1.144, filed September 6, 2005, requesting withdrawal of an improper restriction requirement.

BACKGROUND

A review of the file history was set forth in the previous decision, but is repeated herein for purposes of this decision. The prosecution history shows that this application was filed under 35 U.S.C. 111 on February 11, 2003, and contained claims 1-59. In a first Office action, mailed September 11, 2003, the examiner required restriction between the inventions claimed, as follows:

Group I – Claims 1-19, 25, 31, 37-39 and 41-59 (all in part) drawn to compounds, pharmaceutical compositions and method of treating wherein R1 is an alky (sic alkyl) group, R2 is a cycloalkyl, R3 is an arylalkyl and R4 is an aryl group;

Group II – Claims 1-59 (in part) drawn to compounds, compositions and methods of treating where the definitions are different for R1, R2, R3, R4 than those in Group I.

An election of species was also required for Group II.

The examiner reasoned that the inventions were distinct based on the wide variety of definitions for R1-R4 which give rise to many permutations and combinations and a reference anticipating one species would not anticipate or render obvious another. Very old (and no longer relied upon) case law was cited. The examiner also indicated that a telephone interview with Mr. John Saab had been conducted in which the invention of Group I was elected and the species of compound d, page 66, line 11, elected. No prior art on the species was found and applicants were requested to cancel the non-elected subject matter.

Applicants replied on December 11, 2003, amending a number of claims and adding claims 60-86. Applicants traversed the restriction requirement by arguing that all claims are within the scope of the generic claim and restriction is improper. Applicants argued that the examiner failed to show that the two Groups identified were unrelated or not capable of use together nor why the Groups are not classified together. Further argued was that the division appeared to be arbitrary with no reasons given to justify the division.

The examiner mailed a new Office action to applicants on March 1, 2004, maintaining the restriction requirement maintaining that there was no unity in the core itself. The examiner also argued that merely because they have the same properties they need not necessarily be grouped together. The examiner then added two additional groups to the restriction requirement, restricting Group I to claims 1, 3, 5-6, 8-16, 18, 41-48, 52-56 and 60-86 drawn to compounds, compositions and methods for treating cognition impairment.

Group III was defined as claims 49-51, drawn to other methods of treating.

Group IV was drawn to claim 57 compounds which were indicated as being outside the scope of the compounds of the other claims.

(Note – no Group II was set forth, but is presumed to be as in the first Office action.) The elected claims were indicated as allowable over the prior art.

An interview was held with the examiner on July 22, 2004, but agreement was not reached on all issues.

Applicants filed a formal reply on August 2, 2004, amending claims 18, 41 and 57, and canceling claims 2, 4, 7, 17, 19-40, 50-51 and 58-59. Applicants further traversed the previous and new restriction requirements as improper arguing that the examiner's argument that the core is not novel is in error since there is no requirement that the core be novel, only that the compounds of which the core is a part be novel. Applicants further argued that the examiner's attempts to limit the claims amounted to an improper restriction within a claim or improper rejection. Applicants urged the examiner to follow M.P.E.P. 803.02 in examining a claim in which an election of species has been required.

The examiner mailed a Final Office action to applicants on December 7, 2004, maintaining the withdrawal of claim 57 only. Claims 1, 63-64 (or 68-69) and 83-84 were rejected under 35 U.S.C. 112, first paragraph as lacking enablement, with all other claims being found allowable, but objected to.

Applicants filed a reply to the Office action on March 7, 2005, objecting to the finality of the Office action in view of new rejections made not necessitated by applicants' amendments. Applicants continued the traversal of the restriction requirement, especially with respect to claim 57. Applicants also addressed the rejections of record.

Applicants filed a first petition on March 9, 2005, requesting withdrawal of an improper restriction requirement. A petition decision was mailed to applicants on June 2, 2005, directing the examiner to withdraw the restriction requirement between claim 57 and the other claims to the compounds. It was stated that it appeared that the entire scope of the claims was being

examined as the only objection to the claims appeared to be based on claims depending from a rejected base or independent claim.

Subsequent to the decision the examiner mailed a new Final Office action to applicants on June 3, 2005, in which claim 57 was rejoined with the other claims. However, the examiner then stated that the claims contain non-elected subject matter. All other claim rejections were withdrawn. The examiner advised applicants to amend their claims to the elected scope.

Applicants filed a reply to the Office action and this petition on September 5, 2005. The reply has not been acted on by the examiner.

DISCUSSION

Applicants petition requests review of the restriction requirement as originally set forth which now appears in view of the examiner's action to not have been withdrawn as stated in the previous petition decision. As noted above, the first Office action divided the claims into two groups following a telephone "election of species" requirement made by the examiner. A review of the manner in which the requirement is set forth shows that what is purported to be a restriction requirement is actually an election of species requirement in which the examiner has examined the species and found it allowable and has expanded the "scope" of the species to create effectively a subgenus of the full genus set forth in the Markush group and limited examination to only the created subgenus. Such is improper. While the examiner states that the "restriction" requirement is supported by the burden placed on the Office of examining the large Markush group, such reasoning is improper under M.P.E.P. 803.02.

A review of claim 1 shows that a substituted benzene is claimed. The substituents are two alkoxy radicals ortho to each other and an amino group para to one of the alkoxy groups. The four radicals of the three groups are generally alkyl or cyclic alkyl groups, but may involve additional substitution. However, the various species evidence a common core (the substituted benzene ring) and are alleged to have a utility associated with the core structure thus satisfying the criteria set forth in M.P.E.P. 803.02 for making an election of species requirement. When such a requirement is made, the guidelines of M.P.E.P. 803.02 are required to be followed. Creation of a subgenus based on the elected species is not permitted. In view of the above, the restriction requirement between original Groups I and II is deemed to be an election of species requirement and the examiner's requirement to limit the claims to the subgenus determined by the examiner is withdrawn.

DECISION

The petition is **GRANTED.**

In view of the above decision, the Finality of the last Office action is withdrawn. Further, the original "restriction" requirement is found to have been an "election of species" requirement for which the guidelines of M.P.E.P. 803.02 must be followed. As applicants have timely replied to the Office action the application will be forwarded to the examiner

for consideration of applicants' reply and further action commensurate with an election of species requirement of the above decision.

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

George C. Elliott

George C. Elliott
Director, Technology Center 1600

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WASHINGTON DC 20037

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OFFICE OF PETITIONS

ON PETITION

In re Application of
Jae-hwang Lee et al.
Application No. 10/361,678
Filed: February 11, 2003
Attorney Docket No: Q73718

This is a decision on the petition to reset the period for reply filed January 16, 2007, which is being treated as a petition 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 is **GRANTED**.

This application became abandoned on October 18, 2006, for failure to file a timely response to the non-Final Office Action mailed July 17, 2006, which set a three (3) month statutory period for reply. The instant petition and this decision precede the mailing of the Notice of Abandonment. Petitioner asserts that the non-Final Office Action was never received.

The file record discloses that the Office Action was mailed to the address of record which is the same address used on all correspondences from the USPTO including the Notice of Abandonment. Petitioner has provided a copy of the docket to show that the Office Action mailed July 17, 2006 was not received. Petitioner also explains that after searching the file and docket records, where receipt of the office action would have been indicated if it had been received, it was concluded that no correspondence was received for this matter from the USPTO.

In that the statement from the petitioner and the exhibit from the docket record for the instant matter show no entry indicating receipt of the non-Final Office Action mailed July 17, 2006, it is apparent that it was not received. The evidence submitted corroborates non-receipt of the Office Action.

In view of the facts set forth in the petition, it is concluded that the Office Action was never received at the address of record. Accordingly, the holding of abandonment is withdrawn and no petition fee is due.

This matter is being referred to Technology Center 2143 for a re-mailing of the non-Final Office Action and for a restarting of the period for response.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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MONTREAL, QUEBEC H3A 2Y3
CANADA

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JUN 0 2 2006

OFFICE OF PETITIONS

In re Application of :
Joe Bichel et al :
Application No. 10/361,687 : DECISION ON PETITION
Filed: February 11, 2003 : TO WITHDRAW
Attorney Docket No. 9-16092-2US : FROM RECORD
:

This is a decision on the request to withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed November 25, 2005.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 CFR § 1.136(a). Finally, a proper reason for the withdrawal as enumerated in 37 CFR § 10.40(b) or subsection (1)-(6) of 37 CFR § 10.40(c) must be provided.

The Office cannot approve the request at this time since the request does 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 matters pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR § 10.40(c). The request fails to set forth any reason for the requested withdrawal and, therefore, does comply with the provisions of 37 CFR § 10.40.

A review of the file record discloses that, upon the filing of this application, a power of attorney signed by Mr. Wayne Thompson, President of Airborne Industrial Minerals Inc., was filed appointing the practitioners associated with Customer Number 20988. The power of attorney

document also indicates that a certificate under 37 CFR 3.73(b) was enclosed; however, no such certification was found of record in this application. Accordingly, the assignee had not properly intervened in accordance with 37 CFR 3.71(c).

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant. A courtesy copy of this decision is being mailed to the address noted on the request for withdrawal. However, if Airborne wishes to receive future correspondence regarding this file and/or be represented by counsel, the appropriate power of attorney documents or change of address (in compliance with 37 CFR 3.73(b)) must be submitted.

Office records indicate that a non-final Office action, setting an extendable three month shortened statutory period was mailed on October 11, 2005. To date, there is no indication that a reply to the October 11, 2005 Office action was received.

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

Frances Hicks
Petitions Examiner
Office of Petitions

cc:

Airborne Technologies, Inc.
ATTN : Rodney McCann
#205-6223 2nd Street, S.E.
Calgary, Alberta, Canada T2H 1J5

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855 - 2ND STREET, SW
CALGARY, **CANADA** T2P 4-K7

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OFFICE OF PETITIONS

In re Application of	:	
Joe Bichel, et. al.	:	
Application No. 10/361,687	:	ON PETITION
Filed: February 11, 2003	:	
Attorney Docket No. 9-16092-2us	:	

This is a decision on the petition under 37 CFR 1.137(b), filed on October 18, 2006, to revive the above-identified application.

The application became abandoned for failure to respond to the non-final Office action mailed October 11, 2005. A Notice of Abandonment was mailed on June 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 an amendment, specification, and an oath/declaration; (2) the petition fee of $750; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

The Power of Attorney filed on October 18, 2006, has been accepted and made of record.

This application file is being referred to Technology Center Art Unit 1754, for review of the amendment filed with the instant petition.

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

Andrea Smith
Petitions Examiner
Office of Petitions

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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
10/361,687	02/11/2003	Joe Bichel	9-16092-2us

CONFIRMATION NO. 3213

OC000000026036489

23971
BENNETT JONES
C/O MS ROSEANN CALDWELL
4500 BANKERS HALL EAST
855 - 2ND STREET, SW
CALGARY, AB T2P 4K7
CANADA

Date Mailed: 09/27/2007

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/18/2006.

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

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SHOOK, HARDY & BACON L.L.P.
(MICROSOFT CORPORATION)
INTELLECTUAL PROPERTY DEPARTMENT
2555 GRAND BOULEVARD
KANSAS CITY MO 64108-2613

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JUL 15 2010

OFFICE OF PETITIONS

In re Application of :
Timothy P. McKee, et al. :
Application No. 10/361,712 : DECISION ON PETITION
Filed: February 7, 2003 :
Attorney Docket No. :
302236.01/MFCP.149006

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 8, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before May 4, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed February 4, 2010. Accordingly, the date of abandonment of this application is May 5, 2010.

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 $1,510 and the publication fee of $300, (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay.

t 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 Johnson at (571) 272-2991.

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

Terri Johnson
Petitions Examiner
Office of Petitions

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JJGJr: 07-03

Paper No: 6

ST. ONGE STEWARD
JOHNSTON & REENS, LLC
986 BEDFORD STREET
STAMFORD CT 06905-5619

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OFFICE OF PETITIONS

In re Application of
Gebhardt, et al. :
Application No. 10/361,741 : ON PETITION
Filed: 10 February, 2003 :
Attorney Docket No. 02581-P0514A WWW/TMO :

This is a decision on the petition under ¶(a) of 37 C.F.R. §1.47[1] filed on 2 June, 2003.

Petitioner has shown that, while inventor Ullrich Gebhardt has signed the oath/declaration, the non-signing inventor **Andre Timmermans** (Mr. Timmermans) has refused or otherwise failed to join in the filing of the above-identified application after having been presented with the application papers.

Specifically, the declaration/statement/submission of facts of/by Wesley W. Whitmyer, Jr. (Reg. No. 33,558) and Todd M. Oberdick (Reg. No. 44,268) establishes that the non-signing inventor was mailed the application papers, including the specification, claims and drawings, but failed to respond positively to the request that he sign the declaration or in fact sign said declaration.

---

[1] The regulations at 37 C.F.R. §1.47 provide:

§1.47 Filing when an inventor refuses to sign or cannot be reached.

(a) If a joint inventor refuses to join in an application for patent or cannot be found or reached after diligent effort, the application may be made by the other inventor on behalf of himself or herself and the nonsigning inventor. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, the fee set forth in §1.17(h), and the last known address of the nonsigning inventor. The nonsigning inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.

(b) Whenever all of the inventors refuse to execute an application for patent, or cannot be found or reached after diligent effort, a person to whom an inventor has assigned or agreed in writing to assign the invention, or who otherwise shows sufficient proprietary interest in the matter justifying such action, may make application for patent on behalf of and as agent for all the inventors. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage, the fee set forth in §1.17(h), and the last known address of all of the inventors. An inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.

(c) The Office will send notice of the filing of the application to all inventors who have not joined in the application at the address(es) provided in the petition under this section, and publish notice of the filing of the application in the *Official Gazette*. The Office may dispense with this notice provision in a continuation or divisional application, if notice regarding the filing of the prior application was given to the nonsigning inventor(s).

[47 Fed. Reg. 41275, Sept. 17, 1982, effective Oct. 1, 1982; 48 Fed. Reg. 2709, Jan. 20, 1983, effective Feb. 27, 1983; revised, 62 Fed. Reg. 53131, Oct. 10, 1997, effective Dec. 1, 1997; revised, 65 Fed. Reg. 54604, Sept. 8, 2000, effective Nov. 7, 2000]

Lastly, Petitioner has submitted a declaration in compliance with 37 C.F.R. §1.63 and §1.64 and Petitioner has shown that such action is necessary to prevent irreparable damage.

This application and papers have been reviewed and found in compliance with 37 C.F.R. §1.47(a).

This application hereby is **ACCORDED status under 37 C.F.R. §1.47(a)**.

As provided under 37 C.F.R. §1.47(a), the 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 also will be published in the Official Gazette.

This file is being forwarded to OIPE for processing as necessary to reflect the instant decision, and then will be forwarded to Technology Center 3700 for further processing in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (703) 305-9199.

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

UNITED STATES 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: 07-03

Paper No: 7

ANDRE TIMMERMANS
BRINKLAAN 41
NL-7261
JH RUURLO
NETHERLANDS

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AUG 07 2003

OFFICE OF PETITIONS

In re Application of
Gebhardt, et al.
Application No. 10/361,741
Filed: 10 February, 2003
Attorney Docket No. 02581-P0514A WWW/TMO

COMMUNICATION

Dear Andre Timmermans:

You are named as inventor in the above-identified United States patent application, filed under the provisions of 35 U.S.C. §116 (United States Code), and 37 C.F.R. §1.47,[1] ¶a, Rules of Practice in Patent Cases.

Should a patent be granted on the application you will be designated therein as 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 C.F.R. §1.19) or make your

[1] The regulations at 37 C.F.R. §1.47 provide:

§ 1.47 Filing when an inventor refuses to sign or cannot be reached.

(a) If a joint inventor refuses to join in an application for patent or cannot be found or reached after diligent effort, the application may be made by the other inventor on behalf of himself or herself and the nonsigning inventor. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, the fee set forth in §1.17(h), and the last known address of the nonsigning inventor. The nonsigning inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.

(b) Whenever all of the inventors refuse to execute an application for patent, or cannot be found or reached after diligent effort, a person to whom an inventor has assigned or agreed in writing to assign the invention, or who otherwise shows sufficient proprietary interest in the matter justifying such action, may make application for patent on behalf of and as agent for all the inventors. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage, the fee set forth in §1.17(h), and the last known address of all of the inventors. An inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.

© The Office will send notice of the filing of the application to all inventors who have not joined in the application at the address(es) provided in the petition under this section, and publish notice of the filing of the application in the *Official Gazette*. The Office may dispense with this notice provision in a continuation or divisional application, if notice regarding the filing of the prior application was given to the nonsigning inventor(s). [47 Fed. Reg. 41275, Sept. 17, 1982, effective Oct. 1, 1982; 48 Fed. Reg. 2709, Jan. 20, 1983, effective Feb. 27, 1983; revised, 62 Fed. Reg. 53131, Oct. 10, 1997, effective Dec. 1, 1997; revised, 65 Fed. Reg. 54604, Sept. 8, 2000, effective Nov. 7, 2000]

position of record in the application.

Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. §1.63.

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 toll-free: (800) 972-6382 (outside the Washington D.C. area).

Telephone inquiries concerning this correspondence may be directed to the undersigned at (703) 305-9199.

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

Counsel of Record:
ST. ONGE STEWARD
JOHNSTON & REENS, LLC
986 BEDFORD STREET
STAMFORD CT 06905-5619

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521 WEST 57TH STREET
NEW YORK NY 10019

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FEB 05 2007

OFFICE OF PETITIONS

In re Application of :
Mark A. Sprecker et al :
Application No. 10/361,748 : DECISION GRANTING PETITION
Filed: February 10, 2003 : UNDER 37 CFR 1.137(b)
Attorney Docket No. IFF-46 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 29, 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 reply to the Nonfinal Rejection of November 15, 2005, is accepted as having been unintentionally delayed.

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

This matter is being referred to Technology Center AU 1743.

Karen Creasy
Petitions Examiner
Office of Petitions

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Paper No. 6

SHUMAKER & SIEFFERT, P. A.
8425 SEASONS PARKWAY
SUITE 105
ST. PAUL MN 55125

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DEC 04 2003

OFFICE OF PETITIONS

In re Application of :
Edwards and Lam :
Application No. 10/361,807 : DECISION ACCORDING STATUS
Filed: February 7, 2003 : UNDER 37 CFR 1.47(a)
Attorney Docket No. 1039-015US01 :
For: MEDIUM ACCESS CONTROL IN A :
WIRELESS NETWORK :

This is in response to the petition under 37 CFR 1.47(b), filed October 3, 2003 (certificate of mailing dated September 30, 2003). The petition is properly treated as a petition under 37 CFR 1.47(a). Petitioner obtained a four-month extension of time. Accordingly, the petition is timely filed.

The petition is granted.

Petitioner has shown that Paul C. Edwards, 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 statements of facts of Havard C. Sung and Steven J. Shumaker, establish that the inventor was mailed the application papers, including the specification, claims and drawings, but failed to respond to the request that he sign the declaration.

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 the Office of Initial Patent Examination.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paul C. Edwards
1335 Filbert Street. #306
San Francisco, CA 94109

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DEC 04 2003

OFFICE OF PETITIONS

In re Application of :
Edwards and Lam :
Application No. 10/361,807 : LETTER
Filed: February 7, 2003 :
Attorney Docket No. 1039-015US01 :
For: MEDIUM ACCESS CONTROL IN A :
WIRELESS NETWORK :

Dear Mr. 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).

/CD/

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

SHUMAKER & SIEFFERT, P. A.
8425 SEASONS PARKWAY
SUITE 105
ST. PAUL MN 55125

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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Ralph A. Dowell of DOWELL & DOWELL P.C.
2111 Eisenhower Ave
Suite 406
Alexandria VA 22314

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SEP 25 2006
OFFICE OF PETITIONS

In re Application of :
Carlsson, et al. :
Application No. 10/361,830 : ON PETITION
Filed: February 11, 2003 :
Attorney Docket No. 14271CON :
For: TOPICAL FORMULATION OF OIL-IN-WATER TYPE AS A CARRIER FOR PROVIDING A REDUCED IRRITANT EFFECT

This is a decision on the petition, filed May 11, 2006, under 37 CFR 1.137(b) to revive the above-identified application.

The above-identified application became abandoned for failure to timely submit a reply within three (3) months of the mailing of the October 11, 2005 non-final Office action. No response being received and no extensions of time being obtained, this application became abandoned on January 12, 2006. The filing of the present petition precedes the mailing of a Notice of Abandonment.

Applicants have submitted an amendment in reply to the October 11, 2005 non-final Office action, an acceptable statement of the unintentional nature of the delay in responding to the October 11, 2005 non-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 1617 for consideration of the amendment filed on May 11, 2006.

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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FOLEY & LARDNER LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON WI 53701-1497

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JUL 22 2009

OFFICE OF PETITIONS

In re Application of	:	
DeBey	:	
Application No. 10/361,840	:	ON APPLICATION
Filed: February 10, 2003	:	FOR
Atty Docket No. 088245-4382	:	PATENT TERM ADJUSTMENT

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705, filed May 15, 2009[1].

The request for review of the patent term adjustment is **GRANTED to the extent indicated herein**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is **ZERO (0) days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

To the extent that this application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, a decision is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.703(b). (This is true even in this instance where a request for

[1] This application was timely filed with payment of the Issue Fee on May 15, 2009.

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)). It is noted that at the time of this decision, the patent has not issued.

Applicant is given **TWO (2) MONTHS** from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within 3 years. A copy of this decision should accompany the request. Applicant may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of § 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

With respect to the over 3 year calculation, rather than file the request for reconsideration of Patent Term Adjustment at the time of the mailing of a notice of allowance, applicant is advised that he 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.

With respect to the patent term adjustment at the time of the mailing of the notice of allowance, applicant acknowledges the period of adjustment of 173 days for Office examination delay and the periods of reduction totalling 275 days for applicant delay (in association with the responses filed October 27, 2003, March 31, 2005, and December 27, 2005). Applicant discloses that the period of adjustment of 449 days for the mailing of a Notice of Allowance on November 14, 2008 may be incorrect.

Applicant is correct. No period of adjustment should be entered for Office delay pursuant to 1.703(a)(4)[2] because an appeal brief in compliance with 1.192 was filed on September 9, 2008. The first relevant Office action thereafter was the mailing of a Notice of Allowance on November 14, 2008, 2 months and 5 days later. As the Office acted within four months of the filing of the appeal brief, no adjustment should be entered.

In view thereof, the correct patent term adjustment at the time of mailing of the Notice of Allowance on November 14, 2008 is **ZERO (0) days.**

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

The application file is being forwarded to the Office of Patent Publication for issuance of the patent. 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 Shirene Willis Brantley at (571) 272-3230.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PALM screen

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[2] 37 CFR 1.703(a) (4) provides that: The number of days, if any, in the period beginning on the day after the date that is four months after the date an appeal brief in compliance with § 1.192 was filed and ending on the date of mailing of any of an examiner 's answer under § 1.193, an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first;

PTA Calculations for Application: 10/361840			
Application Filing Date:	02/10/2003	PTO Delay (PTO):	622
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	275
Post-Issue Petitions:	0	Total PTA (days):	0
PTO Delay Adjustment:	-449		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
89	07/21/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		449	
80	02/17/2009	MAIL NOTICE OF ALLOWANCE			
79	02/17/2009	ISSUE REVISION COMPLETED			
77	02/17/2009	DOCUMENT VERIFICATION			
76	02/17/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
75	02/13/2009	EXAMINER'S AMENDMENT COMMUNICATION			
74	02/13/2009	NOTICE OF ALLOWABILITY			
73	01/26/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
72	01/26/2009	REFERENCE CAPTURE ON IDS			
71	01/26/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
70	02/02/2009	DATE FORWARDED TO EXAMINER			
69	01/26/2009	REQUEST FOR CONTINUED EXAMINATION (RCE)			
68	02/02/2009	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
67	01/26/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
66	01/22/2009	FINISHED INITIAL DATA CAPTURE			
65	01/26/2009	WORKFLOW - REQUEST FOR RCE - BEGIN			
64	11/18/2008	EXPORT TO INITIAL DATA CAPTURE			
63	11/14/2008	MAIL EXAMINER'S AMENDMENT			
62	11/14/2008	MAIL NOTICE OF ALLOWANCE	449		39
61	11/12/2008	ISSUE REVISION COMPLETED			
60	11/12/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			

59	11/12/2008	CASE DOCKETED TO EXAMINER IN GAU			
58	11/12/2008	DOCUMENT VERIFICATION			
57	11/12/2008	EXAMINER'S AMENDMENT COMMUNICATION			
56	11/12/2008	NOTICE OF ALLOWABILITY			
53	09/17/2008	APPEAL BRIEF REVIEW COMPLETE			
52	09/17/2008	DATE FORWARDED TO EXAMINER			
51	09/09/2008	APPEAL BRIEF FILED			
50	09/09/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
49	08/20/2008	CASE DOCKETED TO EXAMINER IN GAU			
48	06/09/2008	NOTICE -- DEFECTIVE APPEAL BRIEF			
47	04/21/2008	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
46	04/17/2008	CORRESPONDENCE ADDRESS CHANGE			
45	04/01/2008	DATE FORWARDED TO EXAMINER			
44.1	08/24/2007	DEFECTIVE / INCOMPLETE APPEAL BRIEF FILED			
44	08/24/2007	APPEAL BRIEF FILED			
42	08/08/2007	NOTICE -- DEFECTIVE APPEAL BRIEF			
41	06/04/2007	APPEAL BRIEF REVIEW COMPLETE			
40	06/04/2007	DATE FORWARDED TO EXAMINER			
39.1	04/23/2007	DEFECTIVE / INCOMPLETE APPEAL BRIEF FILED			
39	04/23/2007	APPEAL BRIEF FILED			
38	02/22/2007	NOTICE OF APPEAL FILED			
37	12/21/2006	MAIL FINAL REJECTION (PTOL - 326)			
36	12/14/2006	FINAL REJECTION			
35	10/13/2006	DATE FORWARDED TO EXAMINER			
34	10/10/2006	RESPONSE AFTER NON-FINAL ACTION			
33	07/10/2006	MAIL NON-FINAL REJECTION			
32	07/03/2006	NON-FINAL REJECTION			
31	04/28/2006	DATE FORWARDED TO EXAMINER			
30	04/21/2006	RESPONSE TO ELECTION / RESTRICTION FILED			
29	03/21/2006	MAIL RESTRICTION REQUIREMENT			
28	03/17/2006	REQUIREMENT FOR RESTRICTION / ELECTION			
27	01/10/2006	DATE FORWARDED TO EXAMINER			
26	12/27/2005	RESPONSE AFTER NON-FINAL ACTION		90	21
25	12/27/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			

24	12/13/2005	CORRESPONDENCE ADDRESS CHANGE			
23	12/13/2005	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
22	06/28/2005	MAIL NOTIFICATION OF TERMINAL DISCLAIMER - ACCEPTED			
21	06/28/2005	MAIL NON-FINAL REJECTION			
20	06/24/2005	NON-FINAL REJECTION			
19	04/15/2005	PARALEGAL TD ACCEPTED			
18	04/15/2005	NOTIFICATION OF TERMINAL DISCLAIMER - ACCEPTED			
17	03/31/2005	TERMINAL DISCLAIMER FILED		0	15
16	04/14/2005	DATE FORWARDED TO EXAMINER			
15	03/31/2005	RESPONSE AFTER NON-FINAL ACTION		91	11
14	03/31/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
13	04/14/2005	CORRESPONDENCE ADDRESS CHANGE			
12	04/15/2005	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
11	09/30/2004	MAIL NON-FINAL REJECTION	173		-1
10	09/28/2004	NON-FINAL REJECTION			
9	09/09/2004	CASE DOCKETED TO EXAMINER IN GAU			
8	06/29/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
7	12/24/2003	APPLICATION DISPATCHED FROM OIPE			
6	12/24/2003	APPLICATION IS NOW COMPLETE			
5	10/27/2003	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM		94	4
4	04/25/2003	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
3	04/08/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
2	02/27/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	02/10/2003	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

Back to OASIS | Home page

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/07/09

TO SPE OF : ART UNIT 2183

SUBJECT : Request for Certificate of Correction for Appl. No.: 10361840 Patent No.: 7594250

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (C of C)
Randolph Square 9C62-D
Palm Location 7580

You can fax the Directors/SPE response to 571-270-9990

Lamonte Newsome

Certificates of Correction Branch

703-756-1574

Thank You For Your Assistance

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

I.A. 11-9-09

☑ **Approved** — **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 Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 5

James J. Murphy, Esq.
Winstead Sechrest & Minick
5400 Renaissance Tower
1201 Elm Street
Dallas, TX 75270

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MAY 15 2003

OFFICE OF PETITIONS

In re Application of
RAJUGOPAL GUBBI
Application No. 10/361,873
Filed: February 10, 2003
Attorney Docket No. 003498.p017
(p237X2)

DECISION ON PETITION

This is a decision on the "Petition under 37 CFR § 1.182," filed April 1, 2003, requesting that the above-identified application be accorded a filing date of February 10, 2003.

Application papers in the above-identified application were filed on February 10, 2003. However, on March 18, 2003, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application," notifying applicant *inter alia* that the application papers had not been accorded a filing date because the application was deposited without a complete specification as prescribed by 35 U.S.C. 112.

In reply, petitioner filed the instant petition. Petitioner acknowledges that the specification was inadvertently omitted from the application. However, petitioner requests that the necessary omitted material contained in prior application No. 09/151,545 and submitted in an amendment filed with the petition be included in the instant continuation application and the application be accorded a filing date of February 10, 2003. Petitioner bases this request on the incorporation-by-reference statement in the Utility Patent Application Transmittal of this application-as-filed. Petitioner included with the petition and amendment, payment of the petition fee, and a copy of specification, including claims and drawings along with the copy of the Declaration, from the prior application.

A review of the application-as-filed confirms that it contained the incorporation by reference statement, incorporating the entire disclosure of prior application No. 09/151,545. MPEP 201.06 provides in, pertinent part, that:

> Material needed to accord an application a filing date may not be incorporated by reference. Therefore, if a continuation or divisional application as originally filed incorporates by reference material omitted from the application papers, which is needed to accord the application a filing date, the application will not be entitled to a filing date. A petition under 37 CFR 1.182 and the required petition fee, including an amendment submitting the necessary omitted material, requesting that the necessary omitted material contained in the prior

application and submitted in the amendment, be included in the continuation or divisional application based upon the incorporation by reference statement, is required in order to accord the application a filing date as of the date of deposit of the continuation or divisional application. An amendment submitting the omitted material and relying upon the incorporation by reference will not be entered in the continuation or divisional application unless a decision granting the petition states that the application is accorded a filing date and that the amendment will be entered.

In view thereof, the petition under § 1.182 is **GRANTED**. The amendment will be entered by the examiner in due course. Of course, the examiner is expected to review the specification to determine if it contains new matter.

This application is being forwarded to the Office of Initial Patent Examination (OIPE) for according of a filing date of February 10, 2003, using the application papers received in the Office on that date and the application papers supplied on petition filed April 1, 2003.

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

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

Nancy Johnson
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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MAILED Paper No. 4

JUN 10 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

In re Application of:
CHANG, CHUNG L.
Application No. 10/361,897
Filed: February 7, 2003
For: MOBILE VIDEO SYSTEM

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition filed February 7, 2003 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

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

The petition 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. After mailing, the application will be forwarded to the examiner for immediate handling.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
(703) 305-4710

UNITED STATES PATENT AND TRADEMARK OFFICE

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

IBM CORPORATION
LOTUS SOFTWARE
ONE ROGERS STREET
CAMBRIDGE, MA 02142

Mail Date: 04/20/2010

Applicant	: Emad Abdel Bary	: DECISION ON REQUEST FOR
Patent Number	: 7624173	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/361,948	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/10/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1045** 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

BACHMAN & LAPOINTE PC
900 CHAPEL STREET
SUITE 1201
NEW HAVEN, CT 06510

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SEP 18 2006

OFFICE OF PETITIONS

In re Application of :
George T. Domizio :
Application No. 10/361,963 : DECISION ON PETITION
Filed: February 10, 2003 :
Attorney Docket No. 03-166 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 25, 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 February 22, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed November 22, 2005. Accordingly, the date of abandonment of this application is February 23, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of 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.

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

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

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date Mailed : 5-25-06

Patent No.: 6,802,561
Patent Issued : October 12, 2004
Inventor(s) : Harold Ware
Title: BENCH ASSEMBLY
Docket No.:

Re: Request for Certificate of Correction

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

The alleged claims 10-15 was cancelled by the applicant 01/29/04. Therefore, the numbering of the claims and their dependency is in accordance with the renumbering of dependent claims by the examiner as described in MPEP. 608.01(n).

In view of the foregoing, your request is hereby denied. However, further consideration will be given upon receipt of a request for reconsideration directed to Decisions & Certificates of Correction Branch.

Eva James
For Cecelia B. Newman
Certificate of Correction Branch
(703) 308-9390 ext. 124 or ext. 102

G. Michael Burdick
Dunlap, Codding & Rogers, P.C.
P.O. Box 16370 Customer No. 30589
Oklahoma City, Oklahoma 73113

ej

BEST AVAILABLE COPY

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 9-29-05

TO SPE OF : ART UNIT 4700

SUBJECT : Request for Certificate of Correction on Patent No.: 6802561

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.

Should Claims be enter as requested?

EVA JAMES

Thank You For Your Assistance

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

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

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

Comments:

No support in the prosecution for this request. Claims 10-15 were canceled by applicant in the amendment filed 1/29/04

[signature]
SPE

OPLA
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

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THREE LAKEWAY CENTER
3838 NORTH CAUSEWAY BLVD., SUITE 3290
METAIRIE, LA 70002

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OFFICE OF PETITIONS

In re Patent No. 6,854,471	:
Issue Date: February 15, 2005	:DECISION GRANTING PETITION
Application No. 10/361,985	:UNDER 37 CFR 1.137(b)
Filed: February 11, 2003	:
Attorney Docket No. D02269US (98541.2D3)	:

This is a decision on the petition, filed February 9, 2005, which is being treated as a petition under 37 CFR 1.137(b) to accept an unintentionally delayed notification to the U.S. Patent and Trademark Office (USPTO) of the filing of an application in a foreign country or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

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

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

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

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

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

This application matured into Patent No. 6,854,471 on February 15, 2005. Therefore, no further action being required, this matter is being referred to Files Repository.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3220.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE

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Director's Office
Office of Patent Publication

GEAM - SILICONES - 60SI
IP LEGAL
ONE PLASTICS AVENUE
PITTSFIELD, MA 01201-3697

In re Application of
CRUSE, RICHARD W. et al.
Application No. 10/361,987
Filed: February 10, 2003
Attorney's Docket No. SIL0007-8 (UNI094US-G)

The Notice Of Rescinded Abandonment mailed April 17, 2006 is **VACATED.**

The Request To Withdraw Abandonment Under 1.181 C.F.R., received in the United States Patent and Trademark Office (USPTO) on April 7, 2006, is being treated as a Petition To Withdraw Holding of Abandonment Under 37 CFR 1.181.

The petition is **DISMISSED**. Any request for reconsideration of this decision, or as explained below, filing a petition seeking revival under 37 CFR § 1.137, must be filed within TWO MONTHS (2) from the mail date of this decision.

The application was held abandoned for applicant's failure to timely pay the issue fee and publication fee as required in the Notice of Allowance and Issue Fee Due mailed August 2, 2005, which set a three (3) month statutory period for reply. Accordingly, a Notice of Abandonment was mailed on January 25, 2006.

Investigation of the application file reveals that Part B – Fees(s) Transmittal was received on May 20, 2005. The issue fee and publication fee were processed on May 23, 2005. On July 7, 2005, the Office mailed the Notice Of Withdrawal From Issue Under 37 CFR 1.313(b). The Notice of Withdrawal indicated that the application is withdrawn from issue after payment of the issue fee due to reopening of prosecution. See 37 CFR 1.313(b). Also, annotated that if the application is again found allowable, the issue fee paid can be applied toward the new Notice of Allowance upon written request. The 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

The new Notice of Allowance and Fee(s) Due was mailed on August 2, 2005. The request to apply the issue fee to the new Notice could have been satisfied by simply completing and returning the new Issue Fee Transmittal Form PTOL-85B.

Also, Petitioner appears to not have read the bold text in the new Notice of Allowance and Fee(s) Due, which states:

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE REFLECTS A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE APPLIED IN THE APPLICATION. THE PTOL-85B (0R AN EQUIVALENT) MUST BE RETURNED WITHIN THIS PERIOD EVEN IF NO FEE IS DUE OR THE APPLICATION WILL BE REGARDED AS ABANDONED.

Failure to submit the PTOL-85B, Fee(s) Transmittal resulted in the proper abandonment of the application.

Applicant may seek relief by filing a petition for Revival of Abandoned Application under CFR § 1.137 (a) or (b). (Forms are available at USPTO website http://www.uspto.gov)

- Under 37 CFR 1.137(a), a petition for the revival of an ***unavoidable*** abandoned application
- Under 37 CFR 1.137(b), a petition for the revival of an ***unintentionally*** abandoned application

Further inquires with respect to filing a petition under 37 CFR § 1.137 may be directed to the Office of Petitions at 571-272-3282 or addressed as follows:

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

Telephone inquires concerning this decision matter may be directed to the undersigned at 703 308-9250.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Thomas E. Hawkins
Paralegal Specialist
Office of the Director
Office of Patent Publications

General Electric Advanced Materials – Silicones
771 Old Saw Mill River Road
Bldg. 769 – Suite 300
Tarrytown, New York 10591

UNITED STATES PATENT AND TRADEMARK OFFICE

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GE Advanced Materials - Silicones
771 Old Saw Mill River Road
Tarrytown, NY 10591-6701

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OFFICE OF PETITIONS

In re Application of :
Richard W. Cruse, et. al. :
Application No. 10/361,987 : ON PETITION
Filed: February 10, 2003 :
Attorney Docket No. 143006-21 :

This is a decision on the petition under 37 CFR 1.137(b), filed on June 13, 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 August 2, 2005.

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

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts. However, if petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. A courtesy copy of this decision is being mailed to petitioner. Nevertheless, all future correspondence regarding this application file will be directed solely to the address of record until otherwise instructed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of $1,400 for payment of the issue fee and $300 for payment of the publication fee; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

The Change of Correspondence Address filed on June 13, 2006 has been accepted and made 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: Adrian T. Calderone
Dilworth & Barrese, LLP
333 Earle Ovington Boulevard
Uniondale, NY 11553

14 AUG 20[redacted]

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Douglas B. McKnight
CALFEE, HALTER & GRISWOLD
800 Superior Avenue, Suite 1400
Cleveland, OH 44114

In re Application of:	:	
STARZYK, Janus, et al.	:	DECISION ON PETITION TO
U.S. Application No.: 10/362,004	:	REVIVE ABANDONED
PCT No.: PCT/US01/22852	:	APPLICATION UNDER 37
International Filing Date: 20 July 2001	:	CFR 1.137(b)
Priority Date: 21 July 2000	:	
Attorney's Docket No.: 27211/04047	:	
For: SYSTEM AND METHOD FOR IDENTIFYING AN OBJECT	:	

The petition to revive under 37 CFR 1.137(b) filed 19 February 2003 in the above-captioned application is hereby **GRANTED** as follows:

Applicants' statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

Applicants have now submitted the basic national fee and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application is granted as to the national stage in the United States of America.

This application is being returned to the National Stage Processing Division of the Office of PCT Operations for further processing in accordance with this decision. The 35 U.S.C. 371 date is 19 February 2003.

Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
Telephone: (703) 308-6155
Facsimile: (703) 308-6459

RECEIVED CT/PTC 19 FEB 2003

PTO/SB/64/PCT (10-00)
Approved for use through 10/31/2002. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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

PETITION FOR REVIVAL OF AN INTERNATIONAL APPLICATION FOR PATENT DESIGNATING THE U.S. ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)	Docket Number (Optional) 27211/04047

First named inventor: **Starzyk**

International (PCT) Application No.: **PCT/US01/22852** U.S. Application No.: **60/220,768** (if known)

Filed: **21 JULY 2000**

Title: **SYSTEM AND METHOD FOR IDENITFYING AN OBJECT**

#3

Attention: PCT Legal Staff
Box PCT
Assistant Commissioner for Patents
Washington, D.C. 20231

RECEIVED
12 AUG 2003
Legal Staff
International Division

The above-identified application became abandoned as to the United States because the fees and documents required by 35 U.S.C. 371(c) were not filed prior to the expiration of the time set in 37 CFR 1.494(b) or (c) or 1.495(b) or (c) as applicable). The date of abandonment is the day after the date on which the 35 U.S.C. 371(c) requirements were due. See 37 CFR 1.494(g) or 1.495(h).

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:

(1) Petition fee
(2) Proper reply
(3) Terminal disclaimer with disclaimer fee--required for all international applications having an international filing date before June 8, 1995; and
(4) Statement that the entire delay was unintentional.

1. Petition fee

☐ Small entity - fee $_____(37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☒ Other that small entity - fee $ 1,300.00 (37 CFR 1.17(m))

2. Proper reply

A. The proper reply (the missing 35 U.S.C. 371(c) requirement(s) in the form of **Transmittal Letter to the U.S. (DO/EO) Concerning Filing Under 371** (identify type of reply):

☐ has been filed previously on _____.
☒ is enclosed herewith.

[illegible] 1300.00 [illegible]

Burden Hour Statement: This form is estimated to take 1.0 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

3. Terminal disclaimer with disclaimer fee

☒ Since this international application has an international filing date on or after June 8, 1995, no terminal disclaimer is required.

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

4. Statement. The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional.

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

Feb. 13, 2003
Date

Signature

Jeanne E. Longmuir
Typed or printed name

Telephone Number: (216) 622-8503

800 Superior Avenue, Suite 1400
Address

Cleveland, OH 44114

Enclosures:
☐ Response
☒ Fee Payment
☐ Terminal Disclaimer Form
☒ **Trans. Ltr to U.S. (DO/EO)**

UNITED STATES PATENT AND TRADEMARK OFFICE

#6

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

30 SEP 2003

RONALD E. GREIGG
GREIGG & GREIGG P.L.L.C.
1423 POWHATAN STREET, UNIT ONE
ALEXANDRIA, VA 22314

In Re Application of :
FRIEDRICH BOECKING :
Application No.: 10/362,013 : DECISION ON
PCT No.: PCT/DE02/02236 :
Int. Filing Date: 19 June 2002 : PETITION
Priority Date: 29 June 2001 :
Attorney Docket No.: R 40744 :
For: FUEL INJECTOR HAVING INJECTION :
CURVE SHAPING CARRIED OUT BY :
SWITCHABLE THROTTLING ELEMENTS :

This is a decision on applicant's "REQUEST FOR CORRECTION OF NOTICE OF ACCEPTANCE" and "REQUEST FOR CORRECTION OF FILING RECEIPT" filed in the United States Patent and Trademark Office (USPTO) on 22 August 2003.

BACKGROUND

On 19 June 2002, applicants filed international application No. PCT/DE02/02236, which claimed a priority date of 29 June 2001 and which designated the United States. A copy of the international application was communicated to the United States by the International Bureau on 16 January 2003.

No Demand was filed, thus the deadline for filing the national stage papers under 35 U.S.C. 371 was twenty months from the priority date, or 29 February 2003. Applicant filed a transmittal letter for entry into the national stage, which was accorded a filing date of 19 February 2003. Along with the national stage papers, applicant submitted the basic national stage filing fee and the surcharge for filing an oath or declaration after the twenty month period.

On 05 June 2003, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) and a NOTIFICATION OF DEFECTIVE OATH OR DECLARATION (Form PCT/DO/EO/917) indicating that the declaration in compliance with 37 CFR 1.497 was required.

On 01 August 2003, applicant filed an executed declaration providing the citizenship, residency and mailing address of the sole inventor.

On 14 August 2003, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.494 OR 1.495 (Form PCT/DO/EO/903) indicating an international filing date of 19 June 2002 and 35 U.S.C. 371 and 102(e) filing date of 01 August 2003.

On 22 August 2003, applicant filed the present request with a copy of the NOTIFICATION OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.494 OR 1.495 (Form PCT/DO/EO/903). Applicant urges that the Form 903 be corrected to indicate a priority date of 29 June 2001, which was left blank. Applicant also requests correction of the filing receipt mailed on 14 August 2003, which did not reference the German priority document or priority date. Applicant wishes to correct the title of the invention as it appears on the filing receipt.

DISCUSSION

A review of the publication of international application no. PCT/DE/02/02236 (U.S. national stage application no. 10/362,013) reveals priority was claimed to German application 101 31 640.2, having a filing date of 29 June 2001. The title of the invention as it appears on the publication is "Fuel Injector Having Injection Curve Shaping Carried Out By Switchable Throttling Elements".

The Notification of Acceptance mailed on 14 August 2003 does not reference the priority date "29 June 2001". A new Notification of Acceptance will be issued to include the priority date.

The filing receipt, also issued on 14 August 2003, does not reference the German priority document and its priority date. A new filing receipt will be issued to include the German priority claim and its filing date. However, the title of the invention appears as it does on the published international application and will not be corrected. Applicant is advised that an amendment is needed to change the title of an invention.

CONCLUSION

For the reasons above, applicants' petition under 37 CFR 1.181 is **GRANTED**.

This application is being forwarded the US Designated/Elected Office for issuance of a corrected Notification of Acceptance (FORM PCT/DO/EO/903) indicating a priority date of 29 June 2001 and a corrected filing receipt.

The application will then be forwarded to Art Unit 3747 for examination in due course.

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (703)306-5467

UNITED STATES PATENT AND TRADEMARK OFFICE

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

KIRKPATRICK & LOCKHART NICHOLSON GRAHAM, LLP
STATE STREET FINANCIAL CENTER
ONE LINCOLN STREET
BOSTON, MA 02111-2950

COPY MAILED

JUN 21 2006

OFFICE OF PETITIONS

In re Application of :
Lombardi, et. al. :
Application No. 10/362,040 :
Filed: June 27, 2003 :
Attorney Docket No. A0008/7007 :

DECISION ON REQUEST
TO WITHDRAW FROM
RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed November 18, 2005.

The request is **NOT APPROVED**.

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, "that this application has been transferred to another counsel", does not meet any of the conditions set forth in 37 CFR 10.40.

The Revocation of Power of Attorney with New Power of Attorney and Change of Correspondence Address with the Statement under 37 CFR 3.73(b) filed November 23, 2005, has not been accepted. While the assignee attempted to intervene in this application, compliance with 37 CFR 3.73(b) has not been satisfied, in that, the reel/frame number where the recorded assignment appears in the assignment records of the USPTO has not been provided. Therefore, in order for the Power of Attorney and Statement under 37 CFR 3.73 to be acceptable, compliance with 37 CFR 3.73(b) must be satisfied. A form for complying with the provisions of 37 CFR 3.73(b) may be found on the USPTO website (Form No. PTO/SB/96).

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

This application file is being referred to Technology Center Art Unit 3738, for processing the Request for Continued Examination under 37 CFR 1.114 filed on May 26, 2006.

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

Andrea Smith
Petitions Examiner
Office of Petitions

Conferee:

cc: David W. Laub, Esq.
Heller Ehrman, LLP
1717 Rhode Island Avenue, NW
Washington, DC 20036

19 AUG 2003

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Daniel A. Monaco
Drinker Biddle & Reath
One Logan Square
18th and Cherry Street
Philadelphia, PA 19103-6996

In re Application of	:	
KAYE-WILSON, Lo	:	
Application No.: 10/362,042	:	DECISION
PCT No.: PCT/GB01/03785	:	
Int. Filing Date: 23 August 2001	:	
Priority Date: 23 August 2000	:	
Attorney Docket No.: 08830-0181-US1	:	
For: OPHTHALMIC DEVICE		

This is a decision on "Request to Correct/Change Name and Address of Applicant of a Pending Application under 37 CFR 1.182 and 1.17(h)" filed 28 July 2003 notifying the Office that the inventor's name is Lo Kaye-Wilson, as indicated on the declaration, filed on 28 July 2003, rather than Kaye-Wilson Lo as is indicated on the published international application.

As indicated in Section 201.03 of the Manual of Patent Examining Procedure, where a typographical or transliteration error in the spelling of an inventor's name is discovered, a petition under 37 CFR 1.48(a) is not required. Accordingly, applicants' explanation is accepted and noted for the record.

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

This application is being forwarded to the National Stage Processing Branch of the International Division for further processing with the name of the inventor as LO KAYE-WILSON and for review of the national stage papers submitted 28 July 2003 and, if appropriate, preparation and mailing of the Notification of Acceptance of Application under 35 U.S.C. 371 indicating a date of **28 July 2003** under 35 U.S.C. 371(c).

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
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Finnegan, Henderson, Farabow,
Garrett & Dunner, LLP
901 New York Avenue, NW
Washington, DC 20001-4413

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JUL 01 2008

OFFICE OF PETITIONS

In re Application of :
Lars Zetterquist :
Application No. 10/362,069 : ON PETITION
Filed: May 28, 2003 :
Attorney Docket No. 10676.0001-00 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 22, 2008, 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 September 22, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on December 23, 2005. A Notice of Abandonment was mailed on April 17, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $1540.00; and (3) a proper statement of unintentional delay. Accordingly, the RCE 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 $1050 extension of time fee submitted with the petition on January 22, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be refunded.

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

This application is being referred to Technology Center AU 3643 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.

Carl Friedman
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

Applicant: Legrand et al.
Appl. No.: 10/362,077
International Filing Date: August 14, 2001
Title: BLEACHING COMPOSITION FOR DYED KERATINOUS FIBERS
Attorney Docket No.: 5725.1171-00000
Pub. No.: US 2004/0034944 A1
Pub. Date: February 26, 2004

This is a decision on the request for corrected patent application publication under 37 CFR 1.221(b), filed on April 26, 2004, for the above-identified application.

The request is granted-in-part.

The corrected patent application publication will be published in due course and will only include corrections for errors made by the Office.

A patent application publication is based on the application papers as originally filed, according to 37 CFR 1.215(a), which says the following, in part:

> (a) . . . The patent application publication will be based upon the application papers deposited on the filing date of the application, as well as the executed oath or declaration submitted to complete the application . . . The patent application publication will not include any amendments, including preliminary amendments, unless applicant supplies a copy of the application containing the amendment pursuant to paragraph (c) of this section.

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

of a patent.[1] The instant request includes a mistake that is not the fault of the Office, which will not be corrected as requested in a corrected publication made by the Office.

Specifically, the error in paragraph [0208] will not be corrected as requested because the language in the application as filed is "R_{31}" not "R_{33}." The corrected publication will include the language as filed.

Applicants have been advised to file applications having cleaner text with sufficient clarity and contrast to permit reproduction to avoid errors in the patent application publication process. See 37 CFR 1.52.

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

By facsimile: 703-872-9306

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

[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).

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KIRKPATRICK & LOCHART NICHOLSON GRAHAM, LLP
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PITTSBURGH, PA 15222-2312

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JUN 0 3 2005

OFFICE OF PETITIONS

In re Application of :
Riccardo F. Carina et al :
Application No. 10/362,088 :
Filed: February 19, 2003 :
Attorney Docket No. C4055(C)

ON PETITION

This is a decision on the petition, filed June 2, 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 December 14, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 1751 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).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : August 25, 2006

TO SPE OF : ART UNIT 1751

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/362088 patent No.: 6,992,184

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: THE CHANGE AT COLUMN 11, LINE 3, IN CLAIM 7 SHOULD NOT BE ENTERED BECAUSE THE CHANGE, IF ENTERED, WOULD RENDER THE CLAIM GRAMMATICALLY INCORRECT.

DOUGLAS MCGINTY
SUPERVISORY PATENT EXAMINER

Douglas McGinty
SPE

1751
Art Unit

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15 JUL 2003

Sol Sheinbein
c/o Anthony Castorina
2001 Jefferson Davis Highway, Suite 207
Arlington, VA 22202

In re Application of :
RUBENCZYK, Tal *et al* :
U.S. Application No.: 10/362,095 :
PCT Application No.: PCT/IL01/00786 : **DECISION**
Filing Date: 22 August 2001 :
Priority Date: 24 August 2000 :
Attorney's Docket No.: 25674 :
For: INTERACTIVE SEARCHING SYSTEM :
AND METHOD :

This decision is in response to applicants' "Petition to Revive Under 37 CFR 1.137(b)" filed with the national stage papers on 21 February 2003 which is **DISMISSED** without prejudice, as follows:

A review of international application PCT/IL01/00786 shows that a Notification That International Application Considered to Be Withdrawn (Form PCT/IB/325) was mailed 18 December 2001 indicating that the International Bureau (IB) considered the international application withdrawn on 29 November 2001.

On 02 April 2002, the IB mailed a Communication in Cases for Which No Other Form is Applicable (Form PCT/IB/345) indicating that the RO/IL informed the IB that international application PCT/IL01/00786 has been reinstated pursuant to a decision on petition. However, the Form PCT/IB/345 indicated that the Form PCT/IB/325 was mailed on 25 April 2000, not 18 December 2001. A request for clarification from the IB has not been answered. Since the Form PCT/IB/345 is unclear whether the Form PCT/IB/325 mailed 18 December 2001 is vacated, international application PCT/IL01/00786 is still considered withdrawn. Accordingly, entry into the national stage is not permissible under 35 U.S.C. 366 which states, in part, "

> Subject to section 367 of this part, if an international application designating the United States is withdrawn or considered withdrawn, either generally or as to the United States, under the conditions of the treaty and the Regulations, before the applicant has complied with the applicable part requirements prescribed by section 371(c) of this part, the designation of the United states shall have no effect after the date of withdrawal and shall be considered as not having been made . . .

Therefore, a petition pursuant to 37 CFR 1.137(b) is inappropriate. If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2)**

MONTHS from the mail date of this decision. Any reconsideration request should include evidence that international application PCT/IL01/00786 was reinstated. Extensions of time may be obtained under 37 CFR 1.136(a).

Applicants are advised that the correspondence address has changed. Any further correspondence with respect to this matter deposited with the United States Postal Service should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

James Thomson
Attorney Advisor
PCT Legal Office

Tel.: (703) 308-6457

19 AUG 2003

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Sol Sheinbein
c/o Anthony Castorina
2001 Jefferson Davis Highway, Suite 207
Arlington, VA 22202

In re Application of :
RUBENCZYK, Tal *et al* :
U.S. Application No.: 10/362,095 :
PCT Application No.: PCT/IL01/00786 :
Filing Date: 22 August 2001 :
Priority Date: 24 August 2000 :
Attorney's Docket No.: 25674 :
For: INTERACTIVE SEARCHING SYSTEM :
AND METHOD :

DECISION ON RENEWED PETITION UNDER 37 CFR 1.137(B)

This decision is in response to applicants' "Response to Petition to Revive Under 37 CFR 1.137(b)" filed on 31 July 2003 which is hereby **GRANTED** as follows:

The prior decision dated 15 July 2003 dismissed applicants' initital petition to revive submitted 21 February 2003 because it was unclear whether the Notification That International Application Considered to Be Withdrawn (Form PCT/IB/325) mailed 18 December 2001 was vacated by the International Bureau (IB). The Communication in Cases for Which No Other Form is Applicable (Form PCT/IB/345) located in the file indicated that the Form PCT/IB/325 was mailed on 25 April 2000, not 18 December 2001, and a request for clarification from the IB was not answered.

Here, applicants have submitted a copy of a corrected Form PCT/IB/345 from the IB dated 25 July 2003 which notes that the Form PCT/IB/325 dated 18 December 2001 is considered null and void. This is a sufficient response. The basic national fee and petition fee have previously been paid. Applicants have pronounced that "[t]he entire delay in filing the required reply until the filing of this grantable petition was unintentional" as required by 37 CFR 1.137(b)(3). A terminal disclaimer is not required. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

A review of the application reveals that a signed oath or declaration was not included with any of the papers submitted. Therefore, this application is being forwarded to the United States Designated/Elected Office for further processing including mailing a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge fee pursuant to 37 CFR 1.492(e) is required.

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

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19 JUN 2003

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Eric J. Baude
WARNER-LAMBERT COMPANY LLC
2800 Plymouth Road
Ann Arbor, Michigan 48105

In re Application of:	:	
BARVIAN, Nicole, Chantel, et al.	:	DECISION ON PETITION TO
U.S. Application No.: 10/362,104	:	REVIVE ABANDONED
PCT No.: PCT/US01/14795	:	APPLICATION UNDER 37
International Filing Date: 08 May 2001	:	CFR 1.137(b)
Priority Date: 14 June 2000	:	
Attorney's Docket No.: A0000172-01-EJB	:	
For: 1,2,4-TRISUBSTITUTED BENZENES AS INHIBITORS OF 15-LIPOXYGENASE	:	

The petition to revive under 37 CFR 1.137(b) filed 21 February 2003 in the above-captioned application is hereby **GRANTED** as follows:

Applicants' statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

Applicants have now submitted the basic national fee and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application is granted as to the national stage in the United States of America.

Applicants' 21 February 2003 submission also included a declaration in compliance with 37 CFR 1.497. Deposit Account no. 23-0455 will be charged the $130 surcharge for filing the declaration later than thirty months after the priority date.

This application is being returned to the National Stage Processing Division of the Office of PCT Operations for further processing in accordance with this decision. The 35 U.S.C. 371 date is 21 February 2003.

Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
Telephone: (703) 308-6155
Facsimile: (703) 308-6459

28 JUL 2003

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Richard C. Woodbridge
WOODBRIDGE & ASSOCIATES
P.O. Box 592
Princeton, NJ 08542-0592

In re Application of
RANDALL, Steven *et al*
U.S. Application No.: 10/362,105
PCT No.: PCT/GB01/03784
Int. Filing Date: 22 August 2001
Priority Date: 22 August 2000
Attorney Docket No.: 5035-139US
For: METHOD OF AND APPARATUS FOR COMMUNICATING USER RELATED INFORMATION USING A WIRELESS INFORMATION DEVICE

DECISION

UNDER

37 CFR 1.47(a)

This decision is in response to the papers filed 02 July 2003 which are treated as a petition under 37 CFR 1.47(a).

BACKGROUND

On 29 April 2003, the United States Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath/declaration in compliance with 37 CFR 1.497(a) and (b) and a $130.00 surcharge fee pursuant to 37 CFR 1.492(e) must be provided. Applicants were given two months to respond with extensions of time available.

On 02 July 2003, applicants submitted several documents including a check of $260.00 for the surcharge fee and petition fee, a declaration signed by one of the two co-inventors and a "Declaration of Michelle Foster" ("Decl.").

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the required petition fee; (2) factual proof that the missing joint inventor refuses to execute the application; (3) a statement of the last known address of the missing joint inventor; (4) and an oath or declaration executed by the signing joint inventor on his behalf and on behalf of the non-signing joint inventor. Applicants failed to satisfy item (2).

Concerning item (1), the $130.00 petition fee has been paid.

With regard to item (3), the 37 CFR 1.47(a) applicant listed the last known address of the nonsigning co-inventor, Scott Jenson, as 71 Brondesbury Park, London NW6 7AX, Great Britain. This satisfies item (3).

Regarding item (2), applicants claim that they "do not know the whereabouts of Scott Jenson, co-inventor of the above-mentioned patent application," Decl. at ¶ 1, and that they "have made a bona fide and diligent effort to locate and reach Mr. Scott Jenson. " Id. at ¶ 2. Ms. Foster declares that the non-signing co-inventor "is apparently on a voyage on a boat and is currently unlocatable and unreachable." Id. This evidence is not sufficient to meet the requirements of item (2) of 37 CFR 1.47(a).

Applicants' burden in proving that an inventor cannot be located is explained in section 409.03(d) of the MPEP which states, in part:

> Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made.
>
> The fact that a nonsigning inventor is on vacation or out of town and is therefore temporarily unavailable to sign the declaration is not an acceptable reason for filing under 37 CFR 1.47. Furthermore, the fact that an inventor is hospitalized and/or is not conscious is not an acceptable reason for filing under 37 CFR 1.47. 37 CFR 1.43 may be available under these circumstances. See MPEP 409.02. Such a petition under 37 CFR 1.47 will be dismissed as inappropriate.
>
> The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as internet searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached should be made part of the statement. The steps taken to locate the whereabouts of the nonsigning inventor should be included [in a] statement of facts. It is important that the statement contain facts as opposed to conclusions.

The declaration by Michelle Foster does not sufficiently elaborate on the procedures applicants used to diligently locate Mr. Jenson. In addition, the declaration listed no dates when applicants attempted to contact Mr. Jenson. Applicants did not submit any documentary evidence to show that a diligent effort was made such as copies of any letters mailed to Mr. Jenson at his last known address. Moreover, there is also no indication how Ms. Foster learned that Mr. Jenson was on a boat and no

evidence that a diligent effort was made to learn more information on the boat such as its itinerary, in an attempt to contact Mr. Jenson. Finally, it is not clear from the information provided whether Mr. Jenson is on vacation and only temporarily unavailable. Absent a sufficient showing that applicants have made a diligent effort to contact Mr. Jenson, item (2) is not satisfied.

Regarding item (4), applicants included a Declaration signed by one of the two co-inventors. However, the nonsigning co-inventors' name, residence, post office address and citizenship are not recorded on the declaration. This declaration does not satisfy the requirements of section 409.03(a) of the Manual of Patent Examining Procedure (MPEP) and is not in compliance with 37 CFR 1.497(a) and (b). Item (4) is not complete.

Items (2) and (4) of 37 CFR 1.47(a) have not been satisfied. Accordingly, it is not appropriate to accept this application under 37 CFR 1.47(a) at this time.

CONCLUSION

The petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required.

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

James Thomson
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15 DEC 2003

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Richard C. Woodbridge
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3/16

In re Application of
RANDALL, Steven *et al*
U.S. Application No.: 10/362,105
PCT No.: PCT/GB01/03784
Int. Filing Date: 22 August 2001
Priority Date: 22 August 2000
Attorney Docket No.: 5035-139US
For: METHOD OF AND APPARATUS FOR COMMUNICATING USER RELATED INFORMATION USING A WIRELESS INFORMATION DEVICE

DECISION ON

RENEWED PETITION

UNDER 37 CFR 1.47(a)

This decision is in response to the "Renewed Petition Under 37 CFR 1.47(a)" filed 01 October 2003. No fee is required.

BACKGROUND

On 28 July 2003, a decision dismissing applicants' renewed petition was mailed because they failed to satisfy items (2) and (4) of 37 CFR 1.47(a).

On 01 October 2003, applicants submitted the instant request which was accompanied by, *inter alia*, an executed declaration signed by all of the joint inventors.

DISCUSSION

In the renewed petition under 37 CFR 1.47(a), applicants filed a declaration signed by both of the joint inventors, Stephen Randall and Scott Jenson.

Petitioners declare that "[p]reviously missing co-inventor Scott Johnson [*sic*] has been located and has signed a declaration." In addition, Stephen Randall has executed another declaration listing the correct inventive entity.

CONCLUSION

Since the nonsigning co-inventor has been located and executed a declaration, applicants' renewed petition under 37 CFR 1.47(a) is **DISMISSED** as **MOOT**.

A review of the declaration filed with the instant petition reveals that it is in

compliance with 37 CFR 1.497(a) and (b).

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 22 August 2001, under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 01 October 2003.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (703) 308-6457

25 JUL 2003

#5

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Richard C. Woodbridge, Esq.
Woodbridge & Associates, P.C.
P.O. Box 592
Princeton, NJ 08542-0592

In re Application of RANDALL et al	:	
U.S. Application No.: 10/362,108	:	
PCT Application No.: PCT/GB01/03804	:	DECISION
Int. Filing Date: 28 February 2002	:	
Priority Date Claimed: 22 August 2000	:	
Attorney Docket No.: 5035-138US	:	
For: DATABASE FOR USE WITH A WIRELESS INFORMATION DEVICE	:	

This is in response to applicant's "Response to Notice to File Missing Parts of Application" filed 02 July 2003, which is being treated as a petition under 37 CFR 1.47(a).

BACKGROUND

On 28 February 2002, applicant filed international application PCT/GB01/03804, which claimed priority of an earlier United Kingdom application filed 22 August 2000. A copy of the international application was communicated to the USPTO from the International Bureau on 28 February 2002. The thirty-month period for paying the basic national fee in the United States expired on 22 February 2003.

On 21 February 2003, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 29 April 2003, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 02 July 2003, applicant filed the present petition under 37 CFR 1.47(a).

DISCUSSION

The executed declaration accompanying the petition is improper. Specifically, the declaration lists Stephen Randall as the sole inventor, even though there are two joint inventors. Furthermore, pages 1 and 2 of the declaration appear to be originals whereas page 3 of the declaration appears to have been transmitted by facsimile. This suggests that page 3 of the declaration was not associated with pages 1 and 2 at the time of execution, thereby rendering the execution invalid.

The petition states that joint inventor Scott Jenson is apparently on a voyage on a boat and is therefore unavailable.

MPEP 409.03(d) states in relevant part, "The fact that a nonsigning inventor is on vacation or out of town and is therefore temporarily unavailable to sign the declaration is not an acceptable reason for filing under 37 CFR 1.47."

CONCLUSION

For the reasons above, the petition under 37 CFR 1.47(a) is DISMISSED without prejudice.

A proper response to the Notification of Missing Requirements remains due within the time period set therein.

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

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 703-308-6614
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23 JUL 2004

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#7

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Richard C. Woodbridge, Esq.
Woodbridge & Associates, P.C.
P.O. Box 592
Princeton, NJ 08542-0592

In re Application of RANDALL et al	:	
U.S. Application No.: 10/362,108	:	
PCT Application No.: PCT/GB01/03804	:	COMMUNICATION
Int. Filing Date: 28 February 2002	:	
Priority Date Claimed: 22 August 2000	:	
Attorney Docket No.: 5035-138US	:	
For: DATABASE FOR USE WITH A WIRELESS INFORMATION DEVICE	:	

This is in response to applicant's "Response to Dismissal of Petition Under 37 CFR 1.47" filed 31 October 2003, including declarations executed by both of the joint inventors.

The 31 October 2003 response is a proper reply to the decision mailed 25 July 2003.

The application has an International Filing Date under 35 U.S.C. 363 of 28 February 2002 and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 31 October 2003.

The application will be forwarded to the United States Designated/Elected Office (DO/EO/US) for processing in accordance with this communication.

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05 FEB 2004

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Bret E. Field
Bozicevic, Field & Francis, LLP
200 Middlefield Road, Suite 200
Menlo Park, CA 94025

In re Application of
CAMPBELL
U.S. Application No.: 10/362,137
PCT No.: PCT/AU01/01090
Int. Filing Date: 30 August 2001
Priority Date: 30 August 2000
Attorney Docket No.: PIZZ-001
For: A REMOTE GAMING SYSTEM

DECISION ON PETITION

UNDER 37 CFR 1.47(b)

This decision is in response to applicant's "Petition Under 37 C.F.R. § 1.47(b)" filed 15 December 2003 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 30 August 2001, applicant filed international application PCT/AU01/01090, which claimed priority of an earlier application filed 30 August 2000. A copy of the International Application was forwarded to the United States Patent and Trademark Office (USPTO) from the International Bureau (IB) on 07 March 2002. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 28 February 2003.

On 20 February 2003, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1) and a First Preliminary Amendment.

On 09 July 2003, applicant was mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) informing applicant of the need to provide an executed oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International Application number and international filing date. Applicant was further advised of the need to provide payment of the surcharge for providing an executed oath or declaration of the inventors later than thirty months from the priority date. Applicant was afforded two months to respond and advised that this time period could be extended with a proper petition and payment of fees.

On 15 December 2003, applicant filed the present petition accompanied by payment of a four-month extension time fee. With the payment of the four-month extension time fee,

applicant's response is considered timely filed.

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the requisite petition fee under 37 CFR 1.17(I); (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort; (3) a statement of the last known address of the non-signing inventor; (4) an oath or declaration executed by the 37 CFR 1.47(b) applicant on behalf of and as an agent for the non-signing inventor; (5) proof of proprietary interest in the application; and, (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damages.

As to Item (1), applicant has provided payment of the appropriate petition fee.

Regarding Item (3), applicant has provided the last known address of the non-signing inventor, John Campbell.

As to Item (4), accompanying the petition is a declaration signed by Greg James Kennedy on behalf of World Games IP Holdings, and on behalf of the non-signing inventor.

Regarding Item (5), applicant has included copies of assignments providing a chain of custody from John Campbell to World Games IP Holdings.

As to Item (6), applicant has provided a statement that proceeding under 37 CFR 1.47(b) is necessary to preserve the rights of the parties or to prevent irreparable damages.

Therefore, a review of the papers provided finds that applicant has satisfied items (1), (3), (4), (5) and (6).

Regarding item (2), Section 409.03(d) of the Manual of Patent Examining Procedure (MPEP) states, in part:

> Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, an affidavit or declaration of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made.
>
> The fact that a nonsigning inventor is on vacation or out of town and is therefore temporarily unavailable to sign the declaration is not an acceptable reason for filing under 37 CFR 1.47. Such a petition will be dismissed as inappropriate.
>
> The affidavit or declaration of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as certified mail return receipt,

> cover letter of instructions, telegrams, etc., that support a finding that the nonsigning inventor could not be found or reached should be made part of the affidavit or declaration. It is important that the affidavit or declaration contain statements of fact as opposed to conclusions.
>
> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of this refusal must be specified in an affidavit or declaration by the person to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.

Applicant states that the non-signing inventor, Mr. John Campbell, cannot be found or located after diligent effort. It is unclear from the provided materials whether a complete set of the application papers was mailed to Mr. Campbell as required under MPEP section 409.03. In addition, as detailed above, a claim that the non-signing inventor is out of town is by itself insufficient evidence to proceed under 37 CFR 1.47(b). It appears from applicant's exhibit "B" that the process server was able to speak with Mr. Campbell's secretary. Therefore, applicant should be able to contact the secretary and obtain either an address in Hong Kong for Mr. Campbell or alternatively gather more details as to his travel plans and whether papers can be forwarded to him through his office. As such, it is not possible to grant applicant's petition at this time.

CONCLUSION

Applicant's petition under 37 CFR 1.47(b) is **DISMISSED, without prejudice**.

Applicant is hereby afforded **TWO (2) MONTHS** from the mail date of this decision to file either 1) an oath or declaration in compliance with 37 CFR 1.497 (a)-(b) signed by Mr. Campbell or 2) a renewed petition satisfying all requirements under 37 CFR 1.47(b). Any reconsideration request should include a cover letter entitled, "Renewed Petition Under 37 CFR 1.47(b)." No additional petition fee is required.

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

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29 APR 2004

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Bret E. Field
Bozicevic, Field & Francis, LLP
200 Middlefield Road, Suite 200
Menlo Park, CA 94025

In re Application of	
CAMPBELL	
U.S. Application No.: 10/362,137	DECISION ON RENEWED
PCT No.: PCT/AU01/01090	
Int. Filing Date: 30 August 2001	PETITION UNDER
Priority Date: 30 August 2000	
Attorney Docket No.: PIZZ-001	37 CFR 1.47(b)
For: A REMOTE GAMING SYSTEM	

This decision is in response to applicant's "Renewed Petition Under 37 CFR 1.47(b)" filed 02 April 2004 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 05 February 2004, applicant was mailed a decision dismissing applicant's petition under 37 CFR 1.47(b). Applicant was afforded two months to file any request for reconsideration.

On 02 April 2004, applicant filed the present renewed petition.

DISCUSSION

As detailed in the decision mailed 05 February 2003, a petition under 37 CFR 1.47(b) must be accompanied by (1) the fee under 37 CFR 1.17(i), (2) factual proof that the missing joint investor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, (4) an oath or declaration executed by the 37 CFR 1.47(b) applicant on behalf and as agent for the non-signing inventors, (5) proof of proprietary interest in the application and, (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damages. Applicant previously satisfied items (1), (3)-(6). With the filing of the present renewed petition and accompanying papers, applicant has satisfied the remaining item and it is appropriate to grant the renewed petition under 37 CFR 1.47(b).

As to item (2), applicant has provided a sufficient documentation detailing diligent efforts to locate the non-signing inventor and obtain his signature on the declaration; including sending the inventor a declaration and complete set of application papers at his last known address. Sufficient time has elapsed from the mailing of the papers to inventor and applicant receiving no

response from the inventor to satisfy this item.

Accordingly, applicant has satisfied all six items detailed above and it is proper to grant applicant's renewed petition at this time.

CONCLUSION

For the reasons above, applicant's renewed petition under 37 CFR 1.47(b) is **GRANTED**.

The application has an international filing date of 30 August 2001 under 35 U.S.C. 363, and will be given a date of **15 December 2003** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

As provided in 37 CFR 1.47(b), a notice of the filing of this application will be forwarded to the non-signing inventors at their last known addresses of record. A notice of the filing of the application under 37 CFR 1.47(b) will be published in the Official Gazette.

This application is being returned to the DO/EO/US for processing in accordance with this decision. Specifically, the mailing of a Notification of Acceptance (Form PCT/DO/EO/903).

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29 APR 2004
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Mr. John Campbell
3/86 Spofforth Street
Cremorne, New South Wales, 2090
AUSTRALIA

In re Application of
CAMPBELL
PCT No.: PCT/AU01/01090
Application No.: 10/362,137
Int. Filing Date: 30 August 2001
Priority Date: 30 August 2000
Atty. Docket No.: PIZZ-001
For: A REMOTE GAMING DEVICE

Dear Mr. Campbell:You are named as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(b) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternately, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of the appropriate oath or declaration by you pursuant to 37 CFR 1.63.

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Mr. Bret E. Field
Bozicevic, Field & Francis, LLP
200 Middlefield Road, Suite 200
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United States of America

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William S Frommer
Frommer Lawrence & Haug
745 Fifth Avenue
New York, NY 10151

Mail Date: 04/23/2010

Applicant	: Tetsujiro Kondo	: DECISION ON REQUEST FOR
Patent Number	: 7612909	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/362,141	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/03/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1004** 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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Jones Day (RIM) - 2N
North Point
901 Lakeside Avenue
Cleveland, OH 44114

Mail Date: 04/20/2010

Applicant	: Michael S. Brown	: DECISION ON REQUEST FOR
Patent Number	: 7631180	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/362,178	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/19/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1002** 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.

01 MAR 2004

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Woodling Krost and Rust
Kenneth L Mitchell
9213 Chillicothe Road
Kirkland OH 44094

In re Application of	:	
KOOPS, Hans W. P. et al.	:	
Application No.: 10/362,180	:	DECISION
PCT No.: PCT/EP01/09745	:	
Int. Filing Date: 23 August 2001	:	ON PETITION UNDER
Priority Date: 26 August 2000	:	
Attorney's Docket No.: 8149	:	37 CFR 1.182
For: DEVICE, SET ... TO A SURFACE	:	

This is a decision on applicant's "Rule 1.181 Petition to the Director," filed in the United States Patent and Trademark Office on 08 October 2003. This response is being treated as a petition under 37 CFR 1.182. The petition fee will be charged as authorized by the transmittal letter.

BACKGROUND

On 23 August 2001, applicant filed international application PCT/EP01/09745, which claimed a priority date of 26 August 2000. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 07 March 2002. On 21 February 2002, applicants filed a demand for international preliminary examination which elected the United States, prior to nineteen months from the priority date. The deadline for entry into the national stage in the United States was midnight 26 February 2003.

On 20 February 2003, applicant filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the basic national fee.

On 29 April 2003, the Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b), the fee for late filing of the oath or declaration, a translation of the international application and the processing fee for late filing of the translation were required.

On 08 October 2003, applicant filed the present petition requesting that a filing date be accorded for the response to Notification of Missing Requirements. The petition was accompanied by, *inter alia*, copies of a transmittal letter, a declaration, a translation, a check and a postcard receipt.

DISCUSSION

A review of the documents submitted with the instant petition (which are copies of the documents purportedly filed 27 June 2003), shows that the transmittal letter and the check listed an incorrect U.S. application number, *i.e.*, 10/262,180, not 10/362,180.

Upon review of Office records for 10/262,180, applicant's fees were located. Applicant's petition under 37 CFR 1.181 has thus been treated as a petition under 37 CFR 1.182. The 29 October 2002 fees will be transferred to 10/148,120.

The paperwork that applicant claims to have mailed with the fees has not been located. Applicant indicates that the postcard receipt that accompanied this petition is a copy of the one received from the Office. It lists, *inter alia*, a translation, a declaration and a check. Applicant has submitted the declaration and the translation and indicates that they are copies of the original submission. They are accepted as having a receipt date of 27 June 2003.

CONCLUSION

For the above reasons, applicant's petition under 37 CFR 1.182 is **GRANTED**.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision, including the mailing of a Notification Of Acceptance (Form PCT/DO/EO/903) and filing receipt. The date under date under 35 U.S.C. §§371(c)(1), (c)(2) and (c)(4) date is 27 June 2003.

Richard Cole
PCT Legal Examiner
PCT Legal Administration

Erin M. Pender
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12 FEB 2004

#11

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Kenneth L. Mitchell
Woodling, Krost, and Rust
9213 Chillicothe Road
Kirtland, Ohio 44094

In re Application of	:	
Koops et al	:	
Application No.: 10/362,181	:	
PCT No.: PCT/EP01/09158	:	
Int. Filing Date: 08 August 2001	:	DECISION
Priority Date: 31 August 2000	:	
Attorney's Docket No.: 8151	:	
For: ELECTRON SPECTROMETER	:	

This is in response to petitioner's request for a refund of $477.00 to Deposit Account No.:233060 since the fee was paid by check.

A review of the file indicates that the check for $447.00 was charged on 03 July 2003 but inadvertently credited to another application and petitioner's Deposit Account was charged the fee of $447.00. The check has now been credited to the proper application 10/362,181.

Accordingly, petitioner is entitled to a refund of the fees charged on 27 July 2003 and $447.00 has been refunded on 03 February 2004 to applicants' Deposit Account No.: 233060.

In addition, a review of the previous decision reveals that the incorrect international number was placed on the decision. The correct international serial number is PCT/EP01/09158 for 10/362,181 not PCT/JP01/00885.

CONCLUSION

For reasons above, the request is **GRANTED**.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office

Leonard Smith
PCT Legal Examiner
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24 OCT 2003

#4

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Kenneth L. Mitchell
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In re Application of	:	
Koops et al	:	
Application No.: 10/362,181	:	DECISION ON
PCT No.: PCT/JP01/00885	:	
Int. Filing Date: 08 August 2001	:	PETITION
Priority Date: 31 August 2000	:	
Attorney's Docket No.: 8151	:	UNDER 37 CFR 1.181
For: ELECTRON SPECTROMETER	:	

This decision is in response to the "RULE 1.181 PETITION TO THE DIRECTOR... UNDER 35 USC 371" requesting that the filing date of the above declaration and the translated patent application be corrected to June 27, 2003.

BACKGROUND

On 20 February 2003, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by, inter alia, the requisite basic national fee as required by 35 U.S.C. 371(c)(1), and a copy of the international application. Applicant, however, did not satisfy the requirement set forth by 35 U.S.C. 371(c)(4) and (c)(2) because no executed Declaration or Oath and no translation into English of the international application was provided with the transmittal letter .

On 29 April 2003, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PUT/DO/EO/905) which informed applicant, inter alia, that an "Oath or Declaration of the inventors, in compliance with 37 CFR 1.47(a) and (b), identifying the application by International application number and international filing date" must be submitted within two months from its 29 April 2003 date of mailing or by 32 months from the priority date, whichever is later, in order to avoid abandonment of the national stage application. In addition, the surcharge for providing the oath or declaration later that the appropriate 20 or 30 months from the priority date (37 CFR 1.492(e))

On 08 October 2003 applicants submitted this petition indicating that the response to the Notification of Missing Requirements was timely and that the following documents (copies enclosed herewith) were filed on June 27, 2003.

DISCUSSION

Applicants' present petition accompanied by, *inter alia*, a copy of the following documents, filed purportedly with the PTO as indicated in the stamped postcard:

(1) Declaration and power of attorney for patent application
(2) Translated Patent Application (14 pgs)
(3) Notification of missing requirements under 35 USC 371
(4) Postcard

The postcard lists the items submitted on 27 June 2003, and it indicates that, inter alia, a declaration and translated patent application were submitted to the U.S. Patent Office on such date.

MPEP 503 provides:

A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped by the PTO.

Applicant's postcard is accepted as *prima facie* that, inter alia, that the declaration and translated patent application were submitted to the U.S. Patent Office on 27 June 2003.

DECISION

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

The application is being returned to the United States Designated/Elected Office (DO/EO/US) for processing in accordance with this decision that is, for issuance of a Notification of Acceptance of Application (Form PCT/DO/EO/903) identifying a 35 U.S.C.§ 371 date of **27 June 2003**.

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Leonard Smith
PCT Legal Examiner
PCT Legal Affairs

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THE DOW CHEMICAL COMPANY
INTELLECTUAL PROPERTY SECTION
P. O. BOX 1967
MIDLAND, MI 48641-1967

COPY MAILED

AUG 10 2005

OFFICE OF PETITIONS

In re Application of :
Schachter, et al. : DECISION ON PETITION
Application No. 10/362,203 :
Filed: February 21, 2003 :
Atty. Dkt. No.: UC18096A :

This is a decision on the petition under 37 CFR 1.137(b), filed May 19, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned March 9, 2005 for failure to timely submit corrected formal drawings as required by the Notice of Allowability ("Notice") mailed December 8, 2004. The Notice set a three (3) month statutory period of time for reply. Notice of Abandonment was mailed May 9, 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 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 publishing for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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BOZICEVIC, FIELD & FRANCIS LLP
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MAY 12 2004

OFFICE OF PETITIONS

Applicant: Dittmer
Appl. No.: 10/362,206
International Filing Date: August 13, 2001
Title: SURGICAL HEAD CAMERA
Pub. No.: US 2004/0012713 A1
Pub. Date: January 22, 2004

This is in response to the request for correction of patent application publication under 37 CFR 1.221(b), which was filed on February 5, 2004.

The request is DISMISSED.

The instant request is that the application be republished because the front page of the patent application publication includes an error in foreign priority information wherein the filing date of the Australian application is listed as February 21, 2003, not as August 23, 2000 as listed on the Declaration.

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.[1] The instant request does not identify a material mistake in the publication made by the Office:

The error in the foreign priority information on the front page of the published patent application is an Office error but it is not a material error, as required by 37 CFR 1.221(b). The error in the foreign priority claim is not a material mistake because 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. The specification and claims were accurately published, thus one can read and understand the content of the application. The error also do not affect the use of the patent application publication as a prior art reference, because the foreign priority date is not useable as a reference date.

[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239 Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

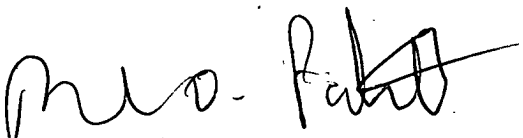
The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application in compliance with the Office's electronic filing system requirements and be accompanied by the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

Any request for republication under 37 CFR 1.221(b), should be submitted via the EFS system and questions or request for reconsideration of this decision, should be addressed as follows:

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

The application will be examined in due course.

Inquiries relating to this matter may be directed to Mark Polutta at (703) 308-8122 (voice) or (703) 746-3465 (facsimile).



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

Enclosure: Corrected Filing Receipt

09 OCT 2003

#4

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Michael D. Folkerts
Stevens & Showalter, LLP
7019 Corporate Way
Dayton, OH 45459-4238

In re Application of	:	
ARMBRUSTER, et al.	:	
U.S. Application No.: 10/362,207	:	DECISION ON PETITION
PCT No.: PCT/EP01/08779	:	
Int. Filing Date: 28 July 2001	:	UNDER 37 CFR 1.137(b)
Priority Date: 21 August 2000	:	
Attorney Docket No.: WEB 002 PA	:	
For: APPARATUS FOR STERILIZING PACKS WITH HYDROGEN PEROXIDE	:	

The petition to revive under 37 CFR 1.137(b) filed 30 June 2003 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" and the prompt filing of the petition satisfies the requirement of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has now provided payment of the full, U.S. Basic National fee and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision. The 35 U.S.C. 371(c) date is **30 June 2003**.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
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Alexandria, Virginia 22313-1450
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U.S. APPLICATION NUMBER NO.	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/362,207	Hans Armbruster	WEB 002 PA

INTERNATIONAL APPLICATION NO.	
PCT/EP01/08779	
I.A. FILING DATE	PRIORITY DATE
07/28/2001	08/21/2000

29673
STEVENS & SHOWALTER LLP
7019 CORPORATE WAY
DAYTON, OH 45459-4238

CONFIRMATION NO. 8667

371
ABANDONMENT/TERMINATION LETTER

OC000000010307281

Date Mailed: 06/20/2003

NOTIFICATION OF ABANDONMENT

The United States Patent and Trademark Office in its capacity as a Designated / Elected Office (37 CFR 1.495) has made the following determination:

- Applicant has failed to provide the full U.S. Basic National Fee by 30 months (37 CFR 1.495(b)(2)).

Therefore, the above identified application failed to meet the requirements of 35 U.S.C. 371 and 37 CFR 1.495,and is ABANDONED AS TO THE UNITED STATES OF AMERICA.

PATRICIA A BOOKER

Telephone: (703) 305-3738

PART 3 - OFFICE COPY

FORM PCT/DO/EO/909 (371 Abandonment Notice)

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

MAILED

JUL 0 2 2009

OFFICE OF PETITIONS

In re Application of :

AWAYA, Akira et al. :
Application No. 10/362,218 : DECISION ON PETITION
Filed: February 26, 2003 : TO WITHDRAW
Attorney Docket No. **068739-0101** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 03, 2009.

The request is **APPROVED**.

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

The request was signed by Stephen B. Maebiius on behalf of all attorneys of record who are associated with customer No. 22428. All attorneys/agents associated with the Customer Number 22428 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 Akira Awaya at the address indicated below. There is an outstanding Office action mailed April 27, 2009 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: **AKIRA AWAYA**
4978-206 TOTSUKA-CHO
TOTSUKA-KU
YOKOHAMA-SHI KANAGAWA 244-0003

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XAVIER PILLAI
LEYDIG, VOIT & MAYER, LTD.
700 THIRTEENTH STREET, NW
SUITE 300
WASHINGTON, DC 20005-3960

COPY MAILED

NOV 0 4 2005

OFFICE OF PETITIONS

In re Application of :
Terrence R. Burke, Jr. et al. :
Application No. 10/362,231 :
Filed: February 21, 2003 :
Attorney Docket No. 402499 :

DECISION ON PETITION
37 CFR 1.137(b)

This is a decision on the petition under 37 CFR §1.137(b), filed September 8, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance and Fee(s) Due/Notice of Allowability mailed March 22, 2005, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on June 23, 2005. No Notice of Abandonment was mailed to the above-identified addressee.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR §1.137(b) in that (1) the issue fee ($1400) and publication fee ($300) 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 reply to the Notice of Allowance mailed March 22, 2005 is accepted as having been unintentionally delayed.

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

This matter is being referred to the Office of 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.

Brian Hearn
Petitions Examiner
Office of Petitions

CC: **XAVIER PILLAI**
LEYDIG, VOIT & MAYER, LTD.
TWO PRUDENTIAL PLAZA, SUITE 4900
180 NORTH STETSON AVENUE
CHICAGO, ILLINOIS 60601-6780

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : May 12, 2006

TO SPE OF : ART UNIT 2618 **(S.P.E. Matthew Anderson)**

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/362233 Patent No.: 7,027,779

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**.

Please see the claims.

STM / STM/ POWELL

Certificates of Correction Branch

703-308-9390 ext. 120

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

Matthew D. Anderson
Supervisory Patent Examiner

SPE 2618 **Art Unit**

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27 AUG 2003

INCYTE CORPORATION (formerly known as Incyte Genomics, Inc.)
3160 PORTER DRIVE
PALO ALTO CA 94304

In re Application of	:	
Yue, et al.	:	
Application Serial No.: 10/362,247	:	
PCT No.: PCT/US01/25987	:	DECISION ON PETITION
Intl. Filing Date: 20 August 2001	:	UNDER 37 CFR 1.182
Priority Date: 21 August 2000	:	
Attorney's Docket No: PI-0244 USN	:	
For: Microtubule Associated Proteins & Tubulins	:	

This decision is in response to applicants' " Petition for Name Change of Inventor Under 37 CFR 1.182" filed on 19 February 2003, which is being treated as a petition under 37 CFR 1.182 to change the name of inventor Narinder Walia due to marriage.

DISCUSSION

The petition to correct the inventor's name was accompanied by a "Request to Change Applicant/Inventor's Name and Address Under Rule 92bis" that has apparently been filed with the International Bureau ("IB"). If this requested name change was entered in the international application by the IB, then the change would apply to the present national stage application, and no further action would be required. A review of the application file did not reveal, however, a record of a Notification of Recording a Change (Form PCT/IB/306) being issued by the IB confirming the requested name change in the international phase. Accordingly, the papers filed on 19 February 2003 have been treated as a petition under 37 CFR 1.182 to make the requested change in the present national stage application.

The Manual of Patent Examining Procedure, Section 605.04(c) requires the submission of a petition under 37 CFR 1.182 in instances where an inventor has changed his or her name after the application has been filed. The petition must include the appropriate petition fee and an affidavit signed with both names setting forth the procedure whereby the change of name was

effected, or certified copy of the court order. In this instance, the 19 February 2003 submission included the authorization to charge a deposit account for the petition fee and an affidavit signed by the inventor using her former and present names. Applicants have, therefore, provided all the requirements for a grantable petition.

CONCLUSION

The petition under 37 CFR 1.182 to change the inventors' name from Narinder Walia to Narinder Chawla is **granted**.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing with the name of the 7th inventor to Narinder Chawla and for review of the national stage papers submitted 19 February 2003.

Boris Milef
PCT Legal Examiner
PCT Legal Office

Kenya A. McLaughlin
PCT Legal Detailee
PCT Legal Office

Phone: (703)305-0010
Facsimile: (703) 308-6459

22 APR 2004

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#4

Rachel S. Watt
Hodgson Russ, LLP
One M&T Plaza, Suite 2000
Buffalo, NY 14203-2391

In re Application of :
MARSHALL, et al. :
Application No.: 10/362267 : DECISION ON PETITION
PCT No.: PCT/GB01/03710 :
Int. Filing Date: 17 August 2001 : UNDER 37 CFR 1.181
Priority Date: 23 August 2000 :
Attorney Docket No.: 18872.0137 :
For: CUP HOLDER :

This decision is in response to applicant's "Petition to The Commissioner Under 37 CFR 1.181(a)" filed 08 April 2004 in the United States Patent and Trademark Office (USPTO). No petition fees are required.

BACKGROUND

On 17 August 2001, applicant filed international application PCT/GB01/07310, which claimed priority of an earlier application filed 23 August 2000. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 28 February 2002. The deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 23 February 2003.

On 21 February 2003, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1) and a First Preliminary Amendment.

On 03 June 2003, applicant was mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) informing applicant of the need to provide an executed oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International Application number and international filing date. in addition, applicant was advised of the need to pay the surcharge for providing an oath or declaration of the inventor later than thirty months from the priority date. Applicant was given two months to respond and advised that this time period could be extended with a proper petition and payment of fees.

On 08 April 2004, applicant filed the present petition to have the accompanying declaration accepted as having been filed on 08 December 2003.

DISCUSSION

The best evidence of what was actually received by the Office is a postcard receipt containing a specific itemization of all the items being submitted. See MPEP 503. Here, applicant has provided a copy of the date-stamped postcard receipt. The postcard identifies the application by inventor and docket number. The receipt identifies the application number as "10/362,267." Among the items listed on the receipt are "Executed Declaration" and "Check in the amount of $1610.00 for the surcharge fee and extension of time fee." The receipt is stamped "OIPE JC48 Patent and Trademark Office DEC 08 2003" across its face. Thus, it is clear that applicant filed an executed declaration on 08 December 2003. For the reasons stated above, it is proper to grant applicant's petition at this time and accept the copy of the declaration filed 08 April 2004 as a substitute for the declaration originally filed 08 December 2003. It is noted that while the postcard lists the check in the amount of $1610.00 there is no record of the check being processed. Therefore, as authorized, the fees will be deducted from Deposit Account No: 08-2442.

Further, a review of the application file reveals that all of the requirements of 35 U.S.C. 371 for entry into the national stage in the United States were satisfied on 08 December 2003.

CONCLUSION

Applicant's petition under 37 CFR 1.181 is **GRANTED**.

This application will be given an international application filing date of 23 August 2000 and a date of **08 December 2003** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

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

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

25 MAY 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

#7

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ALEXANDRIA, VA 22313-1450
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Rachel S. Watt
Hodgson Russ, LLP
One M&T Plaza, Suite 2000
Buffalo, NY 14203-2391

In re Application of
MARSHALL, et al.
Application No.: 10/362267
PCT No.: PCT/GB01/03710
Int. Filing Date: 17 August 2001
Priority Date: 23 August 2000
Attorney Docket No.: 18872.0137
For: CUP HOLDER

DECISION ON REQUEST

FOR REFUND

On 22 April 2004, applicant was mailed a decision granting applicant's petition under 37 CFR 1.181. The application was accorded a 371 date of 08 December 2003. Applicant's originally filed petition papers did not include an proof of payment of the appropriate surcharge and extension of time fees. As such, these fees were charged to Deposit Account No.: 08-2442.

On 05 May 2004, applicant filed the present request for refund of the above fees accompanied by copies of two checks totaling $1610.00 paid to the order of the Director of the US Patent and Trademark Office. The backs of the checks clearly indicate that they were both cashed. As such, it is appropriate to refund the fees at this time.

This application is being forwarded to the United States Designated/Elected Office (US/DO/EO) for continued processing in accordance with this decision.

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

10 FEB 2005

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Dennis S.K. Leung
c/o Shapiro Cohen
P.O. Box 3440
Station D
Ottawa, ON K1P 6P1
CANADA

In re Application of	:	
BUTTS	:	DECISION ON PETITION
U.S. Application No.: 10/362,287	:	
Filing Date: 25 February 2003	:	UNDER 37 CFR 1.181
Atty Docket No.: 1567P01US	:	
For: COMPACT SEWAGE SECONDARY TREATMENT SYSTEM	:	

This decision is in response to applicant's "Request For Withdrawal of Notice of Abandonment" filed 16 September 2004 in the United States Patent and Trademark Office (USPTO). The communication is being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment. No petition fee is due.

BACKGROUND

On 28 September 2001, applicant filed international application PCT/CA01/01224, which claimed priority of an earlier application filed 29 August 2000. The deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 29 February 2003.

On 25 February 2003, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1).

On 03 June 2003, applicant was mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) informing applicant of the need to provide an executed oath or declaration of the inventor, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International Application number and international filing date. Applicant was given two months to respond and advised that this time period could be extended with a proper petition and payment of fees.

On 31 August 2004, applicant was mailed a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) informing applicant that applicant had failed to respond to the NOTIFICATION OF MISSING REQUIREMENTS mailed 03 June 2003 within the time period

set therein and that above-identified application was abandoned as to the United States.

On 16 September 2004, applicant filed the present petition under 37 CFR 1.181 accompanied by copies of the papers purportedly filed on 25 July 2003.

DISCUSSION

37 CFR 1.8(b) states:

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

MPEP 711.03(c) details that as stated in 37 CFR 1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 CFR 1.8).

While applicant has not provided a statement with firsthand knowledge of the fax

transmission, applicant has included a copy of the relevant transaction report showing that the fax was received and counsel has attested that the presently filed materials are true copies of the papers originally faxed on 25 July 2003. Thus, applicant has satisfied items all three items above. Thus, it is proper to grant applicant's petition under 37 CFR 1.8.

Further, a review of the application file reveals that all of the requirements of 35 U.S.C. 371 for entry into the national stage in the United States have now been satisfied. Regarding the assigning of a 35 U.S.C. 371 date, as detailed above, 37 CFR 1.8(a) states that, "[T]he actual date of receipt will be used for all other purposes." In light of the granting of the 37 CFR 1.181 petition, it is proper to accept the copy of the combined declaration and power of attorney filed 16 September 2004 as a substitute for the combined declaration and power of attorney filed 25 July 2003.

CONCLUSION

Applicant's petition under 37 CFR 1.181 is **GRANTED**.

The "NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909)" mailed on 31 August 2004 is hereby **VACATED**.

This application will be given an international application filing date of 28 August 2001 and a date of **16 September 2004** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

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

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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SANOFI-SYNTHELABO INC.
9 GREAT VALLEY PARKWAY
P.O. BOX 3026
MALVERN, PA 19355

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JAN 3 1 2005

OFFICE OF PETITIONS

In re Application of	:	
Jean-Louis Assens, et. al.	:	
Application No. 10/362,291	:	ON PETITION
Filed: February 21, 2003	:	
Attorney Docket No. IVD 1203	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 9, 2004, to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed November 28, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned after midnight February 28, 2004.

In response, petitioner submitted with the instant petition an authorization to charge, the listed deposit account, $1,330 for the petition to revive fee and an amendment. As authorized, the above fee has been charged to petitioner's deposit account.

The petition is **GRANTED**.

The application file is being referred to Technology Center Art Unit 1626, for review of the amendment filed with the instant petition.

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

Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

22 MAY 2003

415

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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Evelyn D. Shen
Warner-Lambert Company
2800 Plymouth Road
Ann Arbor, MI 48105

In re Application of :
CONNOR et al. :
Application No.: 10/362,292 : DECISION ON PETITION
PCT No.: PCT/US01/14798 : UNDER 37 CFR 1.137(b)
Int. Filing Date: 08 May 2001 :
Priority Date: 14 June 2000 :
Attorney Docket No.:5933-01-EDS :
For: INDOLE DERIVATES AND THEIR USE AS 15-LIPOXYGENASE INHIBITORS :

The petition to revive under 37 CFR 1.137(b) filed 21 February 2003 in the above-captioned application is hereby **GRANTED** as follows:

Applicants' statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicants have submitted the basic national fee of $1060 and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

Deposit Account No. 23-0455 has been charged a $130.00 surcharge fee under 37 CFR 492(e) for supplying an oath or declaration later than 30 months from the earliest claimed priority date.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision. The 35 U.S.C. 371(c) date is 21 February 2003.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Telephone: (703) 308-6314
Facsimile: (703) 308-6459

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CAESAR, RIVISE, BERNSTEIN,
COHEN & POKOTILOW, LTD.
11TH FLOOR, SEVEN PENN CENTER
1635 MARKET STREET
PHILADELPHIA, PA 19103-2212

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In re Application of :
Manfred Reitmeier, et al. :
Application No. 10/362,294 : DECISION ON PETITION
Filed: February 21, 2003 :
Attorney Docket No. M1211/20008 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 22, 2008, to revive the above-identified application.

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of November 29, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is March 1, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal; (2) the petition fee of $1540; and (3) a proper statement of unintentional delay.

The petition is **GRANTED**.

The two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision.

A review of the record shows that the petitioner filed a petition to revive under the unintentional standards but paid the fees for an unavoidable petition. In view of the above, the petitioner's deposit account has been charged the difference of $1030 to cover the total fees for the petition under the unintentional standards.

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 $1050 extension of time fee submitted with the petition on August 22, 2008 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 undersigned at (571) 272-1642.

This application is being referred to Technology Center AU 2454 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, Virginia 22313-1450
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CAESAR, RIVISE, BERNSTEIN,
COHEN & POKOTILOW, LTD.
11TH FLOOR, SEVEN PENN CENTER
1635 MARKET STREET
PHILADELPHIA, PA 19103-2212

Mail Date: 04/20/2010

Applicant	: Manfred Reitmeier	: DECISION ON REQUEST FOR
Patent Number	: 7617310	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/362,294	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/21/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **812** 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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11TH FLOOR, SEVEN PENN CENTER
1635 MARKET STREET
PHILADELPHIA, PA 19103-2212

Mail Date: 05/17/2010

Applicant : Manfred Reitmeier
Patent Number : 7617310
Issue Date : 11/10/2009
Application No: 10/362,294
Filed : 02/21/2003

: 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 **847** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

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

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

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8180 GREENSBORO DRIVE
SUITE 850
MCLEAN VA 22102

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OCT 24 2005

OFFICE OF PETITIONS

In re Application of :
Hidetoshi Yamamoto et al :
Application No. 10/362,296 :
Filed: July 14, 2003 :
Attorney Docket No. 36856.1027 :

ON PETITION

This is a decision on the petition, filed October 18, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on September 12, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

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

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

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

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APR 27 2004

ANDRUS, SCEALES, STARKE & SAWALL, LLP
100 EAST WISCONSIN AVENUE, SUITE 1100
MILWAUKEE WI 53202

In re Application of	:	
Odd B. Skjfrseth et al	:	
Serial No. 10/362,322	:	WITHDRAW FROM ISSUE
Filed: June 16, 2003	:	
Title: Intervention Module For A Well	:	

The purpose of this communication is to inform you that the above-identified application is being withdrawn from issue pursuant to 37 C.F.R. 1.313.

The application is being withdrawn to permit reopening of prosecution due to a mistake on the part of the Office.

PTO records reveal that the issue fee has not been paid. If the fee has been submitted, the applicant may request a refund or may request that the fee be credited to a deposit account. However, applicant may wait until the application is either again found allowable or held abandoned. If the application is allowed, upon receipt of a new Notice of Allowance and Issue Fee Due, applicant may request that the previously submitted issue fee be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due. If the application is abandoned, applicant may request either a refund or a credit to a deposit account.

The application is being forwarded to the Examiner for action.

John E. Kittle
Director
Technology Center 3700/2900

22 JUL 2003

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Fish & Richardson P.C.
225 Franklin Street
Boston, MA 02110-2804

In re Application of
Martin et al.
Application No. 10/362,346
PCT No.: PCT/GB01/02850
Int. Filing Date: 27 June 2001
Priority Date: 27 June 2000
Atty. Docket No.: 15491-002US1
For: Hand Tool And Bit

DECISION ON

PETITION UNDER

37 CFR 1.137(b)

This is in response to the petition under 37 CFR 1.137(b) filed on 21 February 2003.

BACKGROUND

This international application was filed on 27 June 2001 and claimed an earlier priority date of 27 June 2000. The International Bureau transmitted a copy of the published international application to the USPTO on 03 January 2002. A Demand electing the United States was filed prior to the elapse of 19 months from the priority date. Accordingly, the 30 month time period for paying the basic national fee in the United States expired at midnight on 27 December 2002. This international application became abandoned with respect to the United States for failure to timely pay the required basic national fee.

DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed; (2) the petition fee as set forth in § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Regarding requirement (1), the petition was accompanied by the basic national fee.

Regarding requirement (2), the petition was accompanied by the petition fee.

Regarding requirement (3), the petition includes a statement that "Applicant submits that the entire period of delay was unintentional." This statement is being construed as a statement that "the entire delay in filing the required reply from the due date for the reply until

the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Petitioner must notify the Patent and Trademark Office if such an interpretation of the statement in the petition is not correct. Thus, the statement in the petition is being accepted in satisfaction of 37 CFR 1.137(b)(3).

Regarding requirement (4), no terminal disclaimer is required because the international filing date of this application is later than 8 June 1995.

DECISION

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

This application is being forwarded to the National Stage Processing Branch for further processing, including the preparation and mailing of a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring an executed oath or declaration of the inventors and a surcharge under 37 CFR 1.492(e).

Applicant is advised that, effective May 1, 2003, the Office has changed its correspondence address. Any further correspondence with respect to this matter deposited with the United States Postal Service on or after May 1, 2003 should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Leonard Smith
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (703) 308-6721
Fax: (703) 308-6459

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MINNEAPOLIS MN 55440-1022

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OFFICE OF PETITIONS

In re Application of	:	
Gramham John Martin et al	:	
Application No. 10/362,346	:	DECISION GRANTING PETITION
Filed: February 2, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 15491-002US1	:	

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 petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Nonfinal Rejection of September 22, 2005, is accepted as having been unintentionally delayed.

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

This matter is being referred to Technology Center AU 3724.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

17 SEP 2003

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RT 9/24/03
11/17/03 Petition / Complet
APPROVED

Jennifer R. Seng
Bayer Polymers, LLC
Pittsburgh, PA 15205-9741

In re Application of
BENDER, et al.
Serial No.: 10/362,347
PCT No.: PCT/CA01/01189
Int. Filing Date: 21 August 2001
Priority Date: 25 August 2000
Atty Docket No.: PO-7646/PS-1085
For: HYDROGENATED NITRILE RUBBERS WITH IMPROVED LOW-TEMPERATURE PROPERTIES

DECISION ON PETITION

UNDER 37 CFR 1.47(a)

This decision is in response to the applicant's "PETITION UNDER 1.47 - FILING A DECLARATION WHEN AN INVENTOR CAN NOT BE REACHED" filed 04 August 2003 in the United States Patent and Trademark Office (USPTO) to accept the application without the signature of inventor Rudolf Casper.

BACKGROUND

On 21 August 2001, applicant filed international application PCT/CA01/01189. A copy of the international application was communicated to the USPTO from the International Bureau on 28 February 2002. A Demand for international preliminary examination, in which the United States was elected, was filed prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 25 February 2003.

On 21 February 2003, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1) and a preliminary amendment. An executed oath or declaration of the inventors as required by 35 U.S.C. 371 (c)(4) was not filed.

On 04 June 2003, applicant was mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) informing applicant of the need to provide an executed oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date. Applicant was afforded two months or by 32 months from the priority date whichever was later to respond.

On 03 July 2003, applicant responded with the present petition accompanied by a

combined declaration and power of attorney.

DISCUSSION

Applicant is advised that 37 CFR 1.47 applies only where a **known** legal representative of a deceased inventor cannot be found or reached after diligent effort, or refuses to make application. In such cases, the last known address of the legal representative must be given (see MPEP § 409.03(e)). In the present case, applicant has not provided any information regarding the deceased inventor's legal representative. The petition merely states that "In order to ascertain the appropriate legal representative of Dr. Casper, Bayer AG requested a Certificate of Inheritance in June of 2003." No additional information was provided, thus, the petition under 37 CFR 1.47 to accept the application without the legal representative is inappropriate pursuant to MPEP 409.03(c). Applicant must seek Dr. Casper's current legal representative. In a similar vein, the filed declaration does not comply with 37 CFR 1.497(a)-(b) in that no information has been provided on the declaration for the legal representative or heir(s). In order to proceed under 37 CFR 1.47(a), applicant is required to identify the non-signing party as detailed above. Where there is no legal representative to the estate, any court of competent jurisdiction should appoint the legal representative for the sole purpose of prosecuting the application. Accordingly, the petition under 37 CFR 1.47(a) is dismissed.

CONCLUSION

For the reasons stated above, applicant's petition under 37 CFR 1.47(a) is **DISMISSED without prejudice**.

Any reconsideration on the merits of this petition must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)" or "Petition Under 37 CFR 1.42" as appropriate. No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

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

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

12 JAN 2004

#7

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Jennifer R. Seng
Bayer Polymers, LLC
Pittsburgh, PA 15205-9741

In re Application of	
BENDER, et al.	DECISION ON PETITION
Serial No.: 10/362,347	
PCT No.: PCT/CA01/01189	UNDER 37 CFR 1.42
Int. Filing Date: 21 August 2001	
Priority Date: 25 August 2000	
Atty Docket No.: PO-7646/PS-1085	
For: HYDROGENATED NITRILE RUBBERS WITH IMPROVED LOW-TEMPERATURE PROPERTIES	

This decision is in response to the applicant's "PETITION UNDER 1.42" filed 18 November 2003 in the United States Patent and Trademark Office (USPTO) to accept the application without the signature of inventor Rudolf Casper.

BACKGROUND

On 17 September 2003, applicant was mailed a decision refusing applicant's request for status under 37 CFR 1.42. Applicant was afforded two months to file any request for reconsideration and advised that this period was extendable pursuant to 37 CFR 1.136(a).

On 18 November 2003, applicant filed the present response accompanied by a new combined declaration and power of attorney.

DISCUSSION

Pursuant to 37 CFR 1.42, first sentence:

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

Applicant's original request for status under 37 CFR 1.42 was dismissed as the filed petition failed to provide any information regarding the deceased inventor's legal representative. The petition merely stated that "In order to ascertain the appropriate legal representative of Dr. Casper, Bayer AG requested a Certificate of Inheritance in June of 2003." Applicant has presently provided an executed declaration and power of attorney identifying Rotraud Casper as the sole heir to the estate of the deceased inventor, Rudolf Casper. The submission of the

declaration executed by the sole heir of the deceased inventor is hereby construed as an indication that no legal representative of the deceased's estate has been appointed and that no legal representative is required by the applicable law to be appointed. If this interpretation is incorrect applicant is required to promptly notify the Office of such and to submit a declaration properly executed by the legal representative of the deceased inventor in response to this decision.

As detailed above, it is proper to grant applicant's petition at this time.

CONCLUSION

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

This application will be given an international application filing date of 21 August 2001 and a date of **18 November 2003** under 35 U.S.C. 371.

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

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

24 JUN 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

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Warner Lambert Company
2800 Plymouth Road
Ann Arbor, MI 48105

In re Application of	:
PICARD et al.	:
Serial No.: 10/362,353	:
PCT No.: PCT/US01/15112	: DECISION ON PETITION
Int. Filing Date: 09 May 2001	:
Priority Date: 14 June 2000	: UNDER 37 CFR 1.137(b)
Attorney's Docket No.: 5932	:
For: 6,5-FUSED BICYCLIC HETEROCYCLES	:

The petition to revive under 37 CFR 1.137(b) filed 21 February 2003 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that the "the entire delay in filing the required reply from the due date for the reply until the filing of this petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that the basic national fee of $900 has been paid. The required petition fee of $1300 has also been paid. Thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office for further processing. Per their authorization, applicants' deposit account will be charged the $130 surcharge for filing the declaration after the thirty month period. The 35 U.S.C. 371 date is **21 February 2003.**

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (703) 306-5467

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1940 DUKE STREET
ALEXANDRIA VA 22314

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FEB 29 2008

OFFICE OF PETITIONS

In re Application of
Satoshi Ueda et al.
Application No. 10/362,359
Filed: February 27, 2003
Attorney Docket No.: 234185US

ON PETITION

This is a decision on the petition filed December 20, 2007 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 29, 2007 for failure to timely pay the issue fee on or before August 26, 2005. Accordingly, a Notice of Abandonment was mailed September 28, 2005.

The issue fee in the amount of $1540, the publication fee in the amount of $300 and the petition fee in the amount of $1440 have all been applied.

All other requirements of 37 CFR 1.137(b) having now been met, this application file is being forwarded to the Publishing Division to be processed into a patent.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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

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

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

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

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

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MENLO PARK CA 94025-3506

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FEB 20 2004

OFFICE OF PETITIONS

In re Application of
Mary E. Gerritsen et al
Application No. 10/362,380
Filed: August 6, 2003
Attorney Docket No. 39766-0072

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

This is a decision on the petition under 37 CFR 1.78(a)(3), filed January 9, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional Application No. 09/940,101, filed August 27, 2001, 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.

The instant pending application was filed on August 6, 2003, and was pending at the time of filing of the instant petition. A reference to the prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(2)(iii).

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

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

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

Any inquiries concerning this decision may be directed to Karen Creasy at (703) 305-8859.

The examiner toTechnology Center Art Unit 1644 will consider applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to prior-filed nonprovisional Application No. 09/940,101, filed August 27, 2001.

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

ATTACHMENT: Corrected Filing Receipt

17 DEC 2003

#6

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

In re Application of
EVEN et al.
Application No.: 10/362,382
PCT No.: PCT/IL01/00756
Int. Filing Date: 14 August 2001
Priority Date: 15 August 2000
Atty. Docket No.: PA2039US
For: A MULTIMEDIA COMMUNICATION CONTROL UNIT AS SECURE DEVICE . . .

DECISION

This is a decision on applicants' "Response to Notification of Defective Response Mailed October 28, 2003" filed on 13 November 2003, which is being treated as Petition under 37 CFR 1.182 to correct the name of the second inventor. Applicants are requesting to change the name of the second-inventor from Uri Rabinison to Uri Rabinerzon. The petition fee has been charged to Deposit Account no. 50-1922, as authorized on the facsimile communication filed 06 October 2003.

DISCUSSION

As indicated in Section 201.03 of the Manual of Patent Examining Procedure, where a typographical or transliteration error in the spelling of an inventor's name is discovered, a petition under 37 CFR 1.48(a) is not required. Accordingly, applicants' explanation is accepted and noted for the record.

The petition has been reviewed and is approved. The declaration submitted on 06 October 2003 is accepted.

CONCLUSION

The petition under 37 CFR 1.182 to change the inventor's name from Uri Rabinison to Uri Rabinerzon is **GRANTED**.

The application has an international filing date of 14 August 2001 under 35 U.S.C. 363 and a date of **06 October 2003** under 35 U.S.C. 371(c). This application is being

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

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (703) 308-6314
Fax: (703) 308-6459

29 SEP 2004
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S. Matthew Cairns
c/o Edwards & Angell
Dike, Bronstein, Roberts & Cushman
P.O. Box 9169
Boston, MA 02209

In re Application of	:	
Suda et al.	:	
Application No.: 10/362,386	:	
PCT No.: PCT/JP01/07157	:	
Int. Filing Date: 21 August 2001	:	DECISION
Priority Date: 21 August 2000	:	
Attorney Docket No.: 51560	:	
For: Electroless Displacement Gold Plating Solution And Additive For Use In Preparing The Plating Solution	:	

This is a decision on applicants' request for "Withdrawal of Abandonment" filed on 21 June 2004.

BACKGROUND

This international application was filed on 21 August 2001 and claimed a priority date of 21 August 2000. The International Bureau transmitted a copy of the published international application to the USPTO on 28 February 2002. A Demand electing the U.S. was filed prior to the elapse of 19 months from the priority date. Consequently, the thirty month period for payment of the basic national fee in the United States expired as of midnight on 21 February 2003. On 21 February 2003, applicants filed *inter alia* the basic national fee.

On 29 May 2003, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring the submission of an executed oath or declaration of the inventors and a surcharge under 37 CFR 1.492(e).

On 20 February 2004, a Notification of Abandonment (Form PCT/DO/EO/909) was mailed to applicants, indicating that this international application had become abandoned with respect to the national stage in the United States for failure to timely reply to the Notification of Missing Requirements.

DISCUSSION

Petitioner requests that the Notification of Abandonment be withdrawn because applicants allegedly submitted a timely response to the Notification of Missing Requirements mailed on 29 May 2003. In support of this, counsel has provided copies of papers allegedly mailed on 17 September 2003, including a document entitled "Completion of Filing Requirements For International Application...," an executed declaration of the inventors, an

MPEP 503 states in part that "A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO." Pursuant to that practice, the papers (including the "Completion of Filing Requirements For International Application...," the executed declaration of the inventors, and the assignment document) filed on 21 June 2004 are being accepted as copies of the respective papers originally filed on 22 September 2003. The electronic records of the USPTO indicate that payment of the recordation fee, the surcharge under 37 CFR 1.492(e) and the extension of time fee under 37 CFR 1.136(a) were received on 22 September 2003. As such, it would be appropriate to conclude that applicant timely replied to the Notification of Missing Requirements mailed on 29 May 2003; therefore, the Notification of Abandonment mailed on 20 February 2004 is hereby **VACATED**.

DECISION

The petition is **GRANTED**.

This application is being forwarded to the National Stage Processing Branch for further processing. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **22 September 2003**.

Richard Cole
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (703) 308-6721
After 30 Sep. 2004: (571) 272-3283
Fax: (703) 308-6459
After 30 Sep. 2004: (571) 273-0459

10/362387
DT[redacted]cc'd PCT/PTO 21 FEB 2003

19 JUN 2002

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DOCKETED
Date: 6/24/02
By: Burns
C/M: 19577-1 PCT

PETER F. WEINBERG
GIBSON, DUNN & CRUTCHER
1801 CALIFORNIA STREET
SUITE 4100
DENVER, CO 80202

In re Application of	:	DECISION
GNADINGER, FRED	:	
PCT No.: PCT/US02/13095	:	
Int. Filing Date: 24 August 2001	:	
Priority Date: 24 August 2000	:	
Attorney's Docket No.:COVA 00001	:	
For: SINGLE TRANSISTOR RARE EARTH MAGNITE	:	
FERROELECTRIC NONVOLATILE MEMORY CELL	:	

On 28 May 2002, the USPTO mailed a decision dismissing applicant's petition under 37 CFR 1.181 filed 08 March 2002 and according the above-identified application an international filing date of 08 March 2002. The petition under 37 CFR 1.181 requested that the application papers (including a PCT Request, a PCT Fee Calculation Sheet, a description, claims, abstract, and drawings) purportedly filed on 24 August 2001 identified by attorney docket number COVA 00001 be accepted as having been received on 24 August 2001 and processed. The decision mailed 28 May 2002 stated that the itemized postcard receipt provided by applicants did not serve as prima facie evidence of receipt of a specification and claims. That decision also indicated that the copy of the Express Mail mailing label provided by applicants only established that a package was deposited with the USPS, but did not establish what was in the package.

Sometime after the mailing of the 28 May 2002 decision, the original submission filed 24 August 2001 was located and matched with the above-identified application. The original submission is date-stamped 24 August 2001 and meets the requirements of PCT Article 11. Accordingly, the petition under 37 CFR 1.181 is MOOT and the decision mailed 28 May 2002 is hereby VACATED.

The application papers have a receipt date of 24 August 2001. The international application number remains PCT/US02/13095. ~~The international filing date is 24 August 2001.~~

The submission by applicant on 08 March 2002 also included a request for rectification under PCT Rule 91.1 requesting that within Box No. V of the Request, the United States be indicated as having been designated. The identification in the Request of Fred P. Gnadinger as an applicant and inventor with this person being applicant for the purposes of the United States only is an indication that applicants intended to designate the United States of America. In view of this indication, acceptance by the RO/US of the request to correct the designations to include the United States in the Request filed 08 March 2002 is appropriate under PCT Rule 91.

RECEIVED
JUN 24 2002
PETER F. WEINBERG

On 25 March 2002, applicants submitted a Demand for International Preliminary Examination for the above-identified application. The Demand filed 25 March 2002 will be forwarded for processing.

For the reasons set forth above, the petition under 37 CFR 1.181 is **DISMISSED** as **MOOT**.

Please direct further correspondence with respect to this matter to the Assistant Commissioner for Patents, Box PCT, Washington, DC 20231, and address the contents of the letter to the attention of the Office of PCT Legal Administration.

This application is being returned to the United States Receiving Office (RO/US) for continued processing including: (1) according the application an international filing date of 24 August 2001; (2) indicating the United States as being designated in Box No. V of the Request; and (3) processing of the Demand.

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (703) 308-2066
Facsimile: (703) 308-6459

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FULBRIGHT & JAWORSKI, LLP
666 FIFTH AVE
NEW YORK, NY 10103-3198

Mail Date: 04/21/2010

Applicant	: Christian Jung	: DECISION ON REQUEST FOR
Patent Number	: 7615257	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/362,403	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/09/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **856** 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.

#4

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McCormick, Paulding & Huber LLP
CityPlace II, 185 Asylum Street
Hartford, CT 06103

In re Application of COLES et al	:	
U.S. Application No.: 10/362,408	:	
PCT Application No.: PCT/NZ01/00177	:	DECISION
Int. Filing Date: 29 August 2001	:	
Priority Date Claimed: 29 August 2000	:	
Attorney Docket No.: 7001-01WOUS	:	
For: MILLING AND DRYING APPARATUS INCORPORATING A CYCLONE	:	

This is in response to the declaration filed 24 February 2003, which is being treated as a request for status under 37 CFR 1.42. No fee for the request is due.

BACKGROUND

On 29 August 2001, applicant filed international application PCT/NZ01/00177, which claimed priority of an earlier New Zealand application filed 29 August 2000. A copy of the international application was communicated to the USPTO from the International Bureau on 07 March 2002. A Demand for international preliminary examination, in which the United States was elected, was filed on 26 March 2002, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired on 29 February 2003.

On 24 February 2003, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1) and an executed declaration.

DISCUSSION

The declaration states that inventor Andrew James Rafferty is deceased.

37 CFR 1.42 provides, "In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent."

Effective 07 November 2000, 37 CFR 1.497(b)(2) specifies that, where a person making the declaration is the legal representative of a deceased inventor, the declaration shall state the following: (1) the relationship of the person to the inventor, (2) the facts the inventor would have been required to state, upon information and belief, (3) that the person is the legal representative of the deceased inventor, and (4) the citizenship, residence, and mailing address of the legal representative.

The declaration filed 24 February 2003 is in compliance with 37 CFR 1.497.

CONCLUSION

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

The application has an International Filing Date under 35 U.S.C. 363 of 29 August 2001, and a date under 35 U.S.C. 371(c) of 24 February 2003.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

Bryan Tung
PCT Legal Examiner
Office of PCT Legal Affairs

Telephone: 703-308-6614
Facsimile: 703-308-6459

17 NOV 2003
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MOTOROLA, INC.
1303 East Algonquin Road
IL01/3RD
Schaumburg, IL 60196

In re Application of :
MILLER, Peter :
U.S. Application No.: 10/362,409 :
PCT No.: PCT/EP02/01495 : **DECISION**
Int. Filing Date: 11 February 2002 :
Priority Date: 29 June 2001 :
Attorney's Docket No.: AP5092ES :
For: LIGHTING SYSTEM AND METHOD :

The decision is in response to applicant's "Petition and Affidavit Under 37 C.F.R. §1.47(b)" ("Pet.") and associated documents submitted on 15 September 2003.

BACKGROUND

On 02 June 2003, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge fee were required. Petitioners were given two-months to respond with extensions of time available pursuant to 37 CFR 1.136(a).

On 15 September 2003, the 37 CFR 1.47(b) applicant submitted the instant petition which was accompanied by, *inter alia*, a $130.00 petition fee; a $130.00 surcharge fee; a two-month extension and $410.00 extension fee; an unexecuted declaration; a copy of an employment agreement; a copy of a letter dated 22 July 2003; a copy of a letter dated 24 June 2003; a copy of a letter dated 23 December 2002; two copies of DHL internet Tracking Results; and a copy of a customer label of a DHL delivery.

DISCUSSION

Petitioner claims that the sole inventor, Peter Miller, received application papers and an oath and declaration, but has not returned them in violation of his employment agreement with Motorola, Inc. Accordingly, the present petition was submitted pursuant to the requirements of 37 CFR 1.47(b).

A petition under 37 CFR 1.47(b) must be accompanied by (1) the requisite petition fee, (2) factual proof that the inventor cannot be reached after diligent effort or refuses to cooperate, (3) a statement of the last known address of the inventor, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the

non-signing inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage.

The appropriate petition fee has been paid. The last known address of the sole inventor is listed in the petition as:

33 Purcell Way
Shefford
Bedforshire SG17 5RY
United Kingdom

With regard to item (6), section 409.03(g) of the Manual of Patent Examining Procedure (MPEP) states that "[i]rreparable damage may be established by a showing (a statement) that a filing date is necessary to preserve the rights of the party or to prevent irreparable damage." A statement that "[s]uch action is necessary to preserve the rights of Motorola" is included In the instant petition. Pet. at ¶ 7.

Therefore, items (1), (3) and (6) of 37 CFR 1.47(b) are satisfied.

Concerning item (2), the 37 CFR 1.47(a) applicant submitted an affidavit by Brian M. Mancini who claims that they received no response after mailing several documents to Mr. Miller on 23 December 2002 asking for the execution of the oath and declaration. Id. at ¶ 3. Then, Mr. Mancini asserts that they received no response after mailing a second letter on 24 June 2003. Id. at ¶ 4. A copy of DHL Tracking Documents for Air Waybill Number 3819967421 states that it was "Signed for by: MILLER delivered June 27, 2003 11:24." A copy of the 24 June 2003 letter purportedly included with the documents was submitted which states that a "copy of the specification" was included.

Finally, Mr. Mancini declares that a third letter was mailed on 22 July 2003, but that no response has been received. Id. at ¶ 5. A copy of the DHL Tracking Documents for Air Waybill Number 3819967421 states that it was "Signed for by: SIMS Shipment delivered July 31, 2003 13:26." Also, a copy of the customer label for DHL 3819972262 is included which shows that it was mailed to the last known address of the sole inventor.

After a careful review of this evidence, it is deemed insufficient to meet the requirements of item (2) of 37 CFR 1.47(b) detailed in section 409.03(d) of the MPEP.

The 37 CFR 1.47(b) applicant is claiming that the sole inventor's conduct in refusing to respond to the mailings constitutes a refusal to cooperate in the above-captioned application. The conduct of a sole inventor may be construed as a refusal. However, it is not clear from the evidence submitted that the sole inventor has received

the documents. The DHL Tracking results claiming delivery on 27 June 2003 is the only proof submitted and it is ambiguous as to who received those documents. The name Miller could refer to a family member. The DHL Tracking results claiming delivery on 31 July 2003 is clearly insufficient as it was signed for by "SIMS Shipment." There is no evidence that the documents filed 23 December 2002 were received. Petitioner has not shown that an attempt to contact Mr. Miller or verify the address was made.

The 37 CFR 1.47(b) applicant must ensure that Mr. Peter Miller still lives at the address listed. An internet check of this address would be sufficient. The 37 CFR 1.47(b) applicant should also attempt to contact Mr. Miller using the telephone if possible to ensure receipt of the entire application and to determine if he refuses to cooperate. If a reason for a refusal to cooperate by Mr. Miller is given, it must be stated in the renewed petition. Documentary evidence of these attempts should be provided.

Regarding item (4), section 409.03(b) of the MPEP requires that a declaration signed by the 37 CFR 1.47(b) applicant must be provided. Here, the 37 CFR 1.47(b) applicant has not provided such a declaration. The declaration submitted with the instant petition is not executed. Thus, item (4) of 37 CFR 1.47(b) is also not satisfied.

Finally, section 409.03(f) of the MPEP discusses the proof required to show the requisite proprietary interest required by item (5) of 37 CFR 1.47(b) and states, in part:

> When an application is deposited pursuant to 37 CFR 1.47(b), the 37 CFR 1.47(b) applicant must prove that:
>
> (A) the invention has been assigned to the applicant, or
> (B) the inventor has agreed in writing to assign the invention to the applicant, or
> (C) the applicant otherwise has sufficient proprietary interest in the subject matter to justify the filing of the application. . . .

Here, the 37 CFR 1.47(b) applicant provided a copy of the employment agreement signed by the sole inventor on "2/5/984." A review of this employment contract for Mr. Miller shows that employee duties with regards to inventions are discussed in sections 12.4 and 12.5. The employee contract indicates that all inventions become the "sole and absolute property of Motorola" and the employee has an affirmative duty to cooperate in their legal protection. Nevertheless, this evidence is insufficient to meet the proprietary interest requirement. Section 409.03(f) of the MPEP also states:

> When an inventor has agreed in writing to assign an invention described in an application deposited pursuant to 37 CFR 1.47(b), a copy of that agreement should be submitted. If an agreement to assign is dependent on certain specified conditions being met, it must be established by a

statement of facts by someone with first hand knowledge of the circumstances in which those conditions have been met. A typical agreement to assign is an employment agreement where an employee (nonsigning inventor) agrees to assign to his or her employer (37 CFR 1.47(b) applicant) all inventions made during employment. **When such an agreement is relied on, it must be established by a statement of a person having firsthand knowledge of the facts that the invention was made by the employee while employed by the 37 CFR 1.47(b) applicant.** (Emphasis added).

A statement by a person having firsthand knowledge of the fact that Mr. Miller made the invention while employed by Motorola, Inc. is required. A statement by an immediate supervisor or co-worker would be sufficient. The statement should also indicate that the invention was within the scope of duties contemplated by the employment agreement of Mr. Miller. Therefore, Item (5) is also not satisfied.

The 37 CFR 1.47(b) applicant failed to meet items (2), (4) and (5), thus, it is not appropriate to accept this application under 37 CFR 1.47(b) at this time.

CONCLUSION

The petition under 37 CFR 1.47(b) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter 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

23 JUN 2004

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Schaumburg, IL 60196

In re Application of :
MILLER, Peter :
U.S. Application No.: 10/362,409 :
PCT No.: PCT/EP02/01495 :
Int. Filing Date: 11 February 2002 :
Priority Date: 29 June 2001 :
Attorney's Docket No.: AP5092ES :
For: LIGHTING SYSTEM AND METHOD :

DECISION ON RENEWED PETITION UNDER 37 CFR 1.47(b)

The decision is in response to the papers filed via facsimile on 27 May 2004. These papers are treated as a renewed petition under 37 CFR1.47(b).

BACKGROUND

On 17 November 2003, a decision dismissing applicant's petition under 37 CFR 1.47(b) was mailed. The 37 CFR 1.47(b) applicant failed to meet the requirements of items (2), (4) and (5) of 37 CFR 1.47(b).

On 27 May 2004, petitioner submitted the instant renewed petition which was accompanied by, *inter alia*, a "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b);" four different affidavits by Brian M. Mancini, Sarah Gibson, Alison Chambers, and Arthur J. Edwards; and a declaration executed by the 37 CFR 1.47(b) applicant.

DISCUSSION

Petition to Revive Under 37 CFR 1.137(b)

Applicant's petition to revive under 37 CFR 1.137(b) is **DISMISSED** as moot.

The above-captioned application is not abandoned.

A decision dismissing applicant's petition under 37 CFR 1.47(b) was mailed on 17 November 2003. Applicant was given two months to respond with extensions of time available under 37 CFR 1.136(a). The time period to respond with a five-month extension does not expire until 17 June 2004.

It is noted that a petition to revive for unintentional abandonment for failure to

timely respond to the prior decision would unlikely to have been granted.

Renewed Petition Under 37 CFR 1.47(b)

As previously indicated, a petition under 37 CFR 1.47(b) must be accompanied by (1) the requisite petition fee, (2) factual proof that the inventor cannot be reached after diligent effort or refuses to cooperate, (3) a statement of the last known address of the inventor, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage. Applicant has met the requirements of items (1), (3) and (6).

Concerning item (2), petitioner failed to meet the requirements of item (2) of 37 CFR 1.47(b) because the 37 CFR 1.47(b) applicant did not verify that the sole inventor received the documents. Petitioner did not attempt to contact Mr. Miller or confirm that the address for him was correct. Petitioner was requested to ensure that Mr. Peter Miller still lives at the address listed and attempt to contact Mr. Miller using the telephone if possible.

In the instant response, petitioner provided an affidavit by Sarah Gibson who confirmed Mr. Miller's last known address by talking to him on the telephone. Alison Chambers indicated in her affidavit that she sent a copy of the oath and declaration to Mr. Miller via email on 12 January 2004. Ms. Chambers states that she spoke with Mr. Miller and confirmed his email address and resent a copy of the oath and declaration to the email on 25 March 2004. In the affidavit, Ms. Chambers declares that "[a]s of this date, more than four months later, Mr. Miller has not complied with our request, nor replied in any way." Petitioners had provided evidence in the original petition that the specification for the above-captioned application was mailed to the address of Mr. Miller on 23 December 2002.

This evidence is sufficient to meet the requirements of item (2) of 37 CFR 1.47(b) and section 409.03(d) of the MPEP.

With regards to item (5) of 37 CFR 1.47(b), the 37 CFR 1.47(b) applicant failed to show the requisite proprietary interest in the original petition. The petitioner provided a copy of the employment agreement signed by the sole inventor which indicates that all inventions become the "sole and absolute property of Motorola" and the employee has an affirmative duty to cooperate in their legal protection. However, petitioner failed to provide a statement of a person having firsthand knowledge of the facts that the invention was made by the employee while employed by the 37 CFR 1.47(b) applicant and that the invention was within the scope of duties contemplated by the employment agreement of Mr. Miller.

In the instant response, petitioner has provided an affidavit by Mr. Arthur J. Edwards, a current employee of Motorola Inc., who claims firsthand knowledge that Mr. Miller was employed by Motorola "at the time of conception" of the above-captioned application and that the invention was "within the scope of his duties."

This declaration combined with the earlier evidence is sufficient to show the requisite proprietary interest in the above-captioned application by the 37 CFR 1.47(b) applicant. Thus, item (5) of 37 CFR 1.47(b) is met.

Regarding item (4), petitioner did not provide a declaration signed by the 37 CFR 1.47(b) applicant for the sole inventor in the original petition.

In the renewed petition, the 37 CFR 1.47(b) applicant has submitted an executed declaration by Mr. Brian Mancini who declares in paragraph four of his affidavit that he is "authorized to act on behalf of the interests of Motorola, Inc." This statement meets the requirements of 37 CFR 3.73(b)(2)(i). *See* § 324 MPEP.

However, the declaration indicates a different address for the sole inventor than has been declared in this petition. The declaration records the address as 11 Purcell Way, Shefford, Bedfordshire United Kingdom. But is has been confirmed by the affidavit of Ms. Gibson that the address for Mr. Miller is 33 Purcell Way, Shefford, Bedfordshire United Kingdom. A new declaration is required.

Thus, item (4) is not yet satisfied.

For this reason, it is not appropriate to accept this application under 37 CFR 1.47(b) at this time.

CONCLUSION

The petition under 37 CFR 1.47(b) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

The five-month extension fee of $2,010.00 has been charged to Deposit Account No. 50-2117 as authorized

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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MOTOROLA, INC.
1303 East Algonquin Road
IL01/3RD
Schaumburg, IL 60196

In re Application of :
MILLER, Peter :
U.S. Application No.: 10/362,409 : **DECISION ON**
PCT No.: PCT/EP02/01495 : **RENEWED PETITION**
Int. Filing Date: 11 February 2002 : **UNDER 37 CFR 1.47(b)**
Priority Date: 29 June 2001 :
Attorney's Docket No.: AP5092ES :
For: LIGHTING SYSTEM AND METHOD :

The decision is in response to the papers filed via facsimile on 16 September 2004 which are treated as a renewed petition under 37 CFR1.47(b).

BACKGROUND

On 23 June 2004, a decision dismissing applicant's petition under 37 CFR 1.47(b) was mailed. The 37 CFR 1.47(b) applicant failed to meet the requirements of item (4) of 37 CFR 1.47(b).

On 16 September 2004, petitioner submitted the instant renewed petition which was accompanied by, *inter alia*, a "Supplemental Affidavit Under 37 C.F.R. § 1.47(b)" by Brian M. Mancini and a declaration executed by the 37 CFR 1.47(b) applicant on behalf of the sole inventor, Peter Miller.

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by (1) the requisite petition fee, (2) factual proof that the inventor cannot be reached after diligent effort or refuses to cooperate, (3) a statement of the last known address of the inventor, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage.

Applicant was unable to satisfy item (4) with the prior renewed petition. The 37 CFR 1.47(b) applicant failed to provide a declaration in compliance with 37 CFR 1.497(a) and (b). Specifically, the mailing address for the sole inventor was not the address listed on the affidavit of Ms. Gibson as the correct address for Mr. Miller.

Here, the petitioner has provided a declaration by Mr. Brian Mancini who declares that he is "authorized to act on behalf of the interests of Motorola, Inc." The residence is listed as 33 Purcell Way, Shefford, Bedfordshire United Kingdom. The declaration is in compliance with 37 CFR 1.497(a) and (b) and meets the requirements of § 409.03(b) of the MPEP. Thus, item (4) is satisfied.

Accordingly, the 37 CFR 1.47(b) applicant has now met all of the requirements of 37 CFR 1.47(b).

CONCLUSION

Applicant's renewed petition under 37 CFR 1.47(b) is **GRANTED**.

As provided in 37 CFR 1.47(b), a notice of the filing of this application will be forwarded to the non-signing inventor at the last known address of record as set forth in the papers filed 15 September 2003 and a notice of the filing of the application under 37 CFR 1.47(b) will be published in the Official Gazette.

Applicant has completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 11 February 2002 under 35 U.S.C. 363, and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 16 September 2004.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

27 SEP 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

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www.uspto.gov

Peter Miller
33 Purcell Way,
Shefford, Bedfordshire
United Kingdom

In re Application of
MILLER, Peter
U.S. Application No.: 10/362,409
PCT No.: PCT/EP02/01495
Int. Filing Date: 11 February 2002
Priority Date: 29 June 2001
Attorney's Docket No.: AP5092ES
For: LIGHTING SYSTEM AND METHOD

Mr. Miller:

You are named as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. § 116. Should a patent be granted, you will be designated as an inventor.

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

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

MOTOROLA, INC.
1303 East Algonquin Road
IL01/3RD
Schaumburg, IL 60196

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Director's Office
Office of Patent Publication

MOTOROLA, INC.
1303 EAST ALGONQUIN ROAD
IL01/3RD
SCHAUMBURG, IL 60196

In re Application of
Peter Miller, et al. :
Application No. 10/362,409 : **DECISION ON PETITION**
Filed: September 16, 2004 :
Attorney Docket No. AP5092ES :

This is a decision on the Petition To Withdraw Notice Of Abandonment Under 37 C.F.R. § 1.181, received in the United States Patent and Trademark Office (USPTO) on November 21, 2005.

The petition is **DISMISSED.** Any request for reconsideration of this decision, or as explained below, filing a petition seeking revival under 37 CFR § 1.137, must be filed within TWO MONTHS (2) from the mail date of this decision.

The application was held abandoned for failure to timely pay the issue fee within the statutory period of three months, as required in the Notice of Allowance and Fee(s) Due, mailed June 24, 2005. Accordingly, the Notice of Abandonment was mailed November 7, 2005.

Petitioner states that:

(1) The Office mailed the first Notice Of Allowance and Fee(s) Due on June 24, 2005
(2) A typographical error made by the Examiner in the first Notice of Allowance was discovered
(3) The Office mailed a Supplemental Notice of Allowance on September 15, 2005, stating that the Issue Fee was due by December 15, 2005
(4) A Notice of Abandonment was mailed November 7, 2005

Inspection of application file via the USPTO's Image File Wrapper (IFW) system, reveals that there is no evidence of a Supplemental Notice Of Allowances and Fee(s) Due. However, it does reveal that a Supplemental Notices of Allowability was mailed on September 15, 2005, which noted in part ..."If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course."

Since, the Notice of Allowance had been previously mailed on June 24, 2005, the applicant was required to respond by returning the Fee(s) Transmittal, Form PTOL-85B by the due date of September 26, 2005, and with payment of the required fees. The Supplemental Notice of Allowability did not extend or restart the time period to pay the required fees indicated in the Notice of Allowance and Fee(s) Due.

Therefore, the holding of abandonment will not be withdrawn as this time.

Although this petition for withdrawal of the holding of abandonment is being dismissed, other petition remedies are available for bringing about the withdrawal of the holding of abandonment.

Petitioner may file a petition for Revival of Abandoned Application or Lapsed Patent under 37 CFR § 1.137.

- Under 37 CFR 1.137(a), a petition for the revival of an ***unavoidably*** abandoned
- Under 37 CFR 1.137(b), a petition for the revival of an ***unintentionally*** abandoned

Further correspondence with respect to the petition for revival under 37 CFR 1.137 should be directed to the Office Of Petition at 571-272-3282 or addressed as follows:

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

Telephone inquires concerning this decision may be directed to the undersigned at 703-308-9250 Ext. 137.

Thomas E. Hawkins
Paralegal Specialist
Office of the Director
Office of Patent Publications

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SCHAUMBURG, IL 60196

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OFFICE OF PETITIONS

In re Application of

Peter Mill

Application No. 10/362,409

Filed: September 16, 2004

Attorney Docket No. AP5092ES

: DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), April 20, 2006, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to timely remit the issue fee of $1,400.00 and the publication fee of $300.00 as required by the Notice of Allowance and Issue Fee Due (the "Notice") June 25, 2005. The Notice set forth a three (3) month statutory period for reply. No response was received within the allowable period. Accordingly, this application became abandoned on September 26, 2005. A Notice of Abandonment was mailed on November 7, 2005.

The issue fee and publication fee will be charged to deposit account 50-2117. The petition fee of $1,500.00 will also be charged to deposit account 50-2117.

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

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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Paper No. None

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180 NORTH STETSON AVENUE
CHICAGO IL 60601-6780

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OFFICE OF PETITIONS

In re Patent No. 6,740,770
Application No. 10/362,410
Filing Date: February 24, 2003
Issue Date: May 25, 2004
Inventor: Tetsuya Shintaku et al.
Attorney Docket Number: 221459
Title of Invention: CRYSTAL OF BICALUTAMIDE AND PRODUCTION METHOD THEREOF

DECISION ON PETITION

This is a decision on the petition filed on December 10, 2004, pursuant to 37 C.F.R. §1.182, requesting issuance of a duplicate Letters Patent for the above-identified patent.

The file record discloses that application No. 10/362,410 matured into U.S. Patent No. 6,740,770 on May 25, 2004. The electronic records further reveal that on that same day, the Patent Grant was mailed to the address of record. However, Petitioner has requested a duplicate, contending "the Letters Patent was never received[1]." Petitioner further requests a refund, stating that the "loss of the Letters Patent is not due in any way to the applicant's fault[2]," in that Petitioner has made a "diligent search...to confirm that the original Letters Patent was never received[3]."

Because petitioner's contention is not supported with sufficient documentary evidence, it is concluded that petitioner has not met the showing required to establish nonreceipt of the original Letters Patent. The presumption that the Letters Patent was properly mailed to the patentee at the correspondence address of record has not been overcome. The standard for overcoming the presumption is the same as for showing nonreceipt of Office communications and is set forth in Delgar v. Schuyler[4]. Although Petitioner has stated that he has completed a diligent search, he has not indicated that both the file jacket and the docket records have been reviewed, and it does not appear that Petitioner has supplied a copy of the docket record where the nonreceived Letters Patent would have been entered had it been received.

1 Petition, page 1.
2 Petition, page 2.
3 Petition, page 1.
4 See also MPEP 711.03(c).

As such, the petition must be **DISMISSED**. This decision is made without prejudice to reconsideration upon the filing of evidence of nonreceipt.

Any reply must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition Under 37 C.F.R. 1.182". This is not a final agency action within the meaning of 5 U.S.C 704.

Petitioner is not precluded, if appropriate, from requesting a duplicate Letters Patent because of loss of the Patent either by the law firm or applicant or assignee, or because of destruction of the Letters Patent. Such a request is made by petition under 37 CFR §1.182, which requires a petition fee of $400.00.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski.

To help assure prompt and proper attention to your response, please see Request for Alert Concerning Submitted Petitions, 1282 Official Gazette (May 18, 2004) for further information on how to assist the Office in delivering your submission to the correct location. The Petitioner may wish to consider telephoning the undersigned one month after the submission is made to confirm that the documents were properly delivered.

Any renewed petition may be submitted by mail[5], hand-delivery[6], or facsimile[7].

The application file will be retained in the Office of Petitions for two (2) months.

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.

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

5 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

6 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.

7 (703) 872-9306 - please note this is a central facsimile number, and as such, there will be a delay in the delivery of the facsimile to the undersigned, which could be as much as one month.

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OFFICE OF PETITIONS

In re Patent No. 6,740,770
Application No. 10/362,410
Filing Date: February 24, 2003
Issue Date: May 25, 2004
Inventor: Tetsuya Shintaku et al.
Attorney Docket Number: 221459
Title of Invention: CRYSTAL OF BICALUTAMIDE AND PRODUCTION METHOD THEREOF

DECISION ON RENEWED PETITION

This is a decision on the renewed petition filed March 17, 2005, pursuant to 37 C.F.R. §1.182, requesting issuance of a duplicate Letters Patent for the above-identified patent.

The file record discloses that application No. 10/362,410 matured into U.S. Patent No. 6,740,770 on May 25, 2004. The electronic records further reveal that on that same day, the Patent Grant was mailed to the address of record. However, Petitioner has requested a duplicate, contending "the Letters Patent was never received[1]." Petitioner further requests a refund, stating that the "loss of the Letters Patent is not due in any way to the applicant's fault[2]," in that Petitioner has made a "diligent search...to confirm that the original Letters Patent was never received[3]."

The original petition was received on December 10, 2004 and was dismissed via the mailing of a decision on March 2, 2005, for failing to submit the documentary evidence which is required to establish non-receipt of a communication. The decision set forth:

Because petitioner's contention is not supported with sufficient documentary evidence, it is concluded that petitioner has not met the showing required to establish nonreceipt of the original Letters Patent. The presumption that the Letters Patent was properly mailed to the patentee at the correspondence address of record has not been overcome. The standard for overcoming the presumption is the same as for showing nonreceipt of Office communications and is set forth in Delgar v. Schuyler[4]. Although Petitioner has stated that he has completed a diligent search, he has not indicated that both the file jacket and the docket records have been reviewed, and it does not appear that Petitioner

1 Original petition, page 1.
2 Original petition, page 2.
3 Original petition, page 1.
4 See also MPEP 711.03(c).

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has supplied a copy of the docket record where the nonreceived Letters Patent would have been entered had it been received.

With this renewed petition, Petitioner has set forth that he has searched the file jacket and the docket records, but could not locate the Letters Patent.

The docket record Petitioner has submitted fails to constitute the docket report discussed in MPEP 711.03(c)[5]. Petitioner has submitted two pages. The first consists of all due dates ranging from June 19, 2004 to July 3, 2004, that are associated with one particular attorney. The second consists of all actions which are due for this particular file. A docket report is a mail log, recorded by the person who receives all incoming mail. A docket report should show all incoming mail received during the relevant time period. As these printouts merely concern the due dates for an individual attorney and an individual file, it fails to show the correspondence at issue was not received and merely misplaced and filed with either another attorney or another file.

As such, the renewed petition must be **DISMISSED**. This decision is made without prejudice to reconsideration upon the filing of evidence of nonreceipt.

Any reply must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reply should include a cover letter entitled "Second Renewed Petition Under 37 C.F.R. 1.182". This is not a final agency action within the meaning of 5 U.S.C 704.

Petitioner is not precluded, if appropriate, from requesting a duplicate Letters Patent because of loss of the Patent either by the law firm or applicant or assignee, or because of destruction of the Letters Patent. Such a request is made by petition under 37 CFR §1.182, which requires a petition fee of $400.00.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski.

To help assure prompt and proper attention to your response, please see Request for Alert Concerning Submitted Petitions, 1282 Official Gazette (May 18, 2004) for further information on how to assist the Office in delivering your submission to the correct location. The Petitioner may wish to consider telephoning the undersigned one month after the submission is made to confirm that the documents were properly delivered.

Any renewed petition may be submitted by mail[6], hand-delivery[7], or facsimile[8].

The application file will be retained in the Office of Petitions for two (2) months.

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5 "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."

6 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

7 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.

8 (703) 872-9306 - please note this is a central facsimile number, and as such, there will be a delay in the delivery of the facsimile to the undersigned, which could be as much as one month.

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The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.

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

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OFFICE OF PETITIONS

In re Patent No. 6,740,770
Application No. 10/362,410
Filing Date: February 24, 2003
Issue Date: May 25, 2004
Inventor: Tetsuya Shintaku et al.
Attorney Docket Number: 221459
Title of Invention: CRYSTAL OF BICALUTAMIDE AND PRODUCTION METHOD THEREOF

DECISION ON SECOND RENEWED PETITION

This is a decision on the second renewed petition filed May 27, 2005, pursuant to 37 C.F.R. §1.182, requesting issuance of a duplicate Letters Patent for the above-identified patent.

The file record discloses that application No. 10/362,410 matured into U.S. Patent No. 6,740,770 on May 25, 2004. The electronic records further reveal that on that same day, the Patent Grant was mailed to the address of record. However, Petitioner has requested a duplicate, contending "the Letters Patent was never received[1]." Petitioner further requests a refund, stating that the "loss of the Letters Patent is not due in any way to the applicant's fault[2]," in that Petitioner has made a "diligent search...to confirm that the original Letters Patent was never received[3]."

The original petition was received on December 10, 2004 and was dismissed via the mailing of a decision on March 2, 2005, for failing to submit the documentary evidence which is required to establish non-receipt of a communication. The decision set forth:

Because petitioner's contention is not supported with sufficient documentary evidence, it is concluded that petitioner has not met the showing required to establish nonreceipt of the original Letters Patent. The presumption that the Letters Patent was properly mailed to the patentee at the correspondence address of record has not been overcome. The standard for overcoming the presumption is the same as for showing nonreceipt of Office communications and is set forth in Delgar v. Schuyler[4]. Although Petitioner has stated that he has completed a diligent search, he has not indicated that both the file jacket and the docket records have been reviewed, and it does not appear that Petitioner has supplied a copy of the docket record where the nonreceived Letters Patent would have been entered had it been received.

1 Original petition, page 1.
2 Original petition, page 2.
3 Original petition, page 1.
4 See also MPEP 711.03(c).

The renewed petition was received on March 17, 2005, along with a statement establishing that Petitioner set forth that he searched the file jacket and the docket records, but could not locate the Letters Patent. This renewed petition was dismissed via the mailing of a decision on April 21, 2005, which indicated:

> The docket record Petitioner has submitted fails to constitute the docket report discussed in MPEP 711.03(c)[5]. Petitioner has submitted two pages. The first consists of all due dates ranging from June 19, 2004 to July 3, 2004, that are associated with one particular attorney. The second consists of all actions which are due for this particular file. A docket report is a mail log, recorded by the person who receives all incoming mail. A docket report should show all incoming mail received during the relevant time period. As these printouts merely concern the due dates for an individual attorney and an individual file, it fails to show the correspondence at issue was not received and merely misplaced and filed with either another attorney or another file.
>
> Decision on renewed petition, page 2.

With this second renewed petition, Petitioner has included the petition fee along with a statement establishing that his firm does not maintain a mail log which records all incoming mail. As such, Petitioner will be unable to establish that the item was not received. Petitioner may wish to consider filing a third renewed petition, asserting that the item has been lost, since if an applicant cannot establish that a Letters Patent was not received, the only avenue available to them is to submit the petition fee along with an assertion that the item was either lost or destroyed.

As such, the second renewed petition must be **DISMISSED**.

Any reply must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reply should include a cover letter entitled "Third Renewed Petition Under 37 C.F.R. 1.182". This is not a final agency action within the meaning of 5 U.S.C 704.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and the renewed petition may be submitted by mail[6], hand-delivery[7], or facsimile[8].

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.

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

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5 "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"

6 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

7 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.

8 (571) 273-8300- please note this is a central facsimile number.

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OFFICE OF PETITIONS

In re Patent No. 6,740,770
Application No. 10/362,410
Filing Date: February 24, 2003
Issue Date: May 25, 2004
Inventor: Tetsuya Shintaku et al.
Attorney Docket Number: 221459
Title of Invention: CRYSTAL OF BICALUTAMIDE AND PRODUCTION METHOD THEREOF

CORRECTED DECISION ON PETITION

This is a corrected decision on the renewed petition filed May 27, 2005, pursuant to 37 C.F.R. §1.182, requesting issuance of a duplicate Letters Patent for the above-identified patent.

A decision was mailed on September 22, 2005 dismissing the renewed petition.

That decision is hereby **VACATED**.

The renewed petition is hereby **GRANTED**.

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

Questions pertaining to this application should be directed towards the Office of Patent Publication at (703) 305-8497. 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: —

DATE : 6/12/07

TO SPE OF : ART UNIT 2872

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/362421 Patent No: 6865002 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 SEND TO ATTORNEY"

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within **7** days, to:

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

VIRGINIA TOLBERT
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

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

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

Comments: The language on the Certificate of Correction is new: It doesn't match the document filed Feb. 25, 2003. The error noted is not made on the part of the PTO.

FR
8/23/07

Stephen Bach
SPE

2872
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 6,865,002

DATED : March 8, 2005

INVENTOR(S): Nobuhiro KIHARA et al

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

Title Page:

Item (57) should be read as follows:

-- The present invention provides an image exposure-recording device for exposure-recording holographic stereogram images or hologram images to a hologram recording medium, the device having an inverse correction system, in which the plane of polarization of reference light r is rotated by a half-wave plate (11), the reference light R is then made incident on a hologram recording medium (3), and the intensity of the reference light R transmitted through a polarizing plate (12), of the reference light R transmitted through a partial area of the hologram recording medium, is detected by a photodetector (13). As the inverse correction system decides the rotation angle of the half-wave plate so that the intensity of the reference light R detected by the photodetector reaches the minimum or maximum, reduction in coherence between object light and reference light due to transmission of the object light and the reference light through the hologram recording medium having double refraction is avoided, and a holographic stereogram based on the reproduction of bright holographic stereogram images is produced --.

MAILING ADDRESS OF SENDER:

Customer No. 23353
Rader, Fishman & Grauer PLLC
1233 20th Street, NW
Suite 501
Washington, DC 20036

PATENT NO. 6,865,002

—

Our Ref: SON-2423
FORM PTO 1050 (REV. 3-82)

JUN 1 - 1 2007

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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BOZICEVIC, FIELD & FRANCIS LLP
200 MIDDLEFIELD RD
SUITE 200
MENLO PARK CA 94025

COPY MAILED

JUN 1 8 2004

OFFICE OF PETITIONS

Applicant: Shun
Appl. No.: 10/362,432
International Filing Date: August 22, 2001
Title: LAPAROSCOPIC TRAINER
Attorney Docket No.: RICE-019
Pub. No.: US 2004/0033476 A1
Pub. Date: February 19, 2004

This is in response to the request for correction of patent application publication under 37 CFR 1.221(b), which was filed on March 4, 2004.

The request is DISMISSED.

The instant request is that the application be republished because the front page of the patent application publication includes errors in the foreign priority information as benefit claims to the Australian applications are omitted.

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.[1] The instant request does not identify a material mistake in the publication made by the Office:

The errors in the omitted foreign priority information on the front page of the published patent application are Office errors but they are not material errors, as required by 37 CFR 1.221(b). The omitted foreign priority claims are not a material mistakes because they do 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. The specification and claims were accurately published, thus one can read and understand the content of the application. The errors also do not affect the use of the patent application publication as a prior art reference, because the foreign priority dates are not useable as a reference date.

[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239 Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

On July 1, 2003, a Filing Receipt (copy enclosed) was mailed omitting the foreign benefit claims. To avoid this type of problem in the future, applicants' representative should make request a corrected filing receipt using the facsimile number (703-746-9195) on the Filing Receipt.

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

Any request for republication under 37 CFR 1.221(a), should be submitted via the EFS system and questions or request for reconsideration of this decision, should be addressed as follows:

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

The application will be examined in due course.

Inquiries relating to this matter may be directed to Mark Polutta at (703) 308-8122 (voice) or (703) 746-3465 (facsimile).

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

Enclosure: Filing Receipt (mailed 07/01/03)
Corrected Filing Receipt

14 SEP 2004

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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SMART & BIGGAR/FETHERSTONHAUGH & CO.
P.O. BOX 2999, STATION D
55 METCALFE STREET
OTTAWA, CANADA K1P5Y-6

In re Application of RICHARDS et al :
U.S. Application No.: 10/362,458 :
PCT Application No.: PCT/CA01/01225 : DECISION
Int. Filing Date: 27 August 2001 :
Priority Date Claimed: 25 August 2000 :
Attorney Docket No.: 77813-124 /pw :
For: HAEMOPHILUS INFLUENZAE . . . :

This is in response to applicant's "Petition Under 37 C.F.R. § 1.181" filed 10 September 2004.

BACKGROUND

On 27 August 2001, applicant filed international application PCT/CA01/01225, which claimed priority of an earlier United States application filed 25 August 2000. A copy of the international application was communicated to the USPTO from the International Bureau on 28 February 2002. The thirty-month period for paying the basic national fee in the United States expired on 25 February 2003.

On 25 February 2003, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 06 June 2003, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 05 August 2003, applicant purportedly filed an executed declaration via facsimile.

On 10 September 2004, applicant filed the present petition under 37 CFR 1.181.

DISCUSSION

A review of the application file reveals that the declaration purportedly filed on 05 August 2003 is not present. However, applicant has provided a copy of the declaration along with a certificate of transmission in compliance with 37 CFR 1.8(b). Thus, correspondence is considered timely. However, the declaration is improper. Specifically, the declaration consists of one each of pages 1-3, two of page 4, and three of page 5. It is not sufficient to submit only the signature page of a declaration because it raises doubt as to whether the signature page was associated with the remaining declaration pages at the time of execution. Applicant is required to submit either: (1) a single complete declaration which is presented to and executed by all of the inventors or (2) multiple complete declarations, each of which is presented to and executed by at least one of the inventors.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.181 is GRANTED.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision, including preparation and mailing of a Notification of Defective Response (Form PCT/DO/EO/916) which should indicate that an oath or declaration, properly executed as discussed above, must be filed.

Bryan Tung
PCT Legal Examiner
Office of PCT Legal Administration

Telephone: 703-308-6614
Facsimile: 703-308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

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

WILSON & HAM
1811 Santa Rita Road
Suite 130
Pleasanton, CA 94566

Mail Date: 04/21/2010

Applicant	: Andrew Louis Martin	: DECISION ON REQUEST FOR
Patent Number	: 7594005	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/362,493	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/16/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1697** 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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MAIL

APR 04 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

OLIFF & BERRIDGE, PLC
P.O. BOX 19928
ALEXANDRIA VA 22320

In re Application of :
HEIN-MAGNUSSEN, JON, et al. :
Application No. 10/362,508 : DECISION ON PETITION
Filed: February 25, 2003 : TO MAKE SPECIAL
For: **COMMUNICATIONS TERMINAL, A SYSTEM AND A METHOD FOR INTERNET/NETWORK TELEPHONY** :

This is a decision on the petition filed February 25, 2005 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

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

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

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

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications
571-272-2986

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NOVAK DRUCE DELUCA & QUIGG, LLP
1300 EYE STREET NW
SUITE 1000 WEST TOWER
WASHINGTON, DC 20005

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JAN 19 2007

OFFICE OF PETITIONS

In re Application of :
Bernhard Hauer, et al. :
Application No. 10/362,530 : ON PETITION
Filed: February 25, 2003 :
Attorney Docket No. 51701 :

This is a decision in response to the petition, filed August 11, 2006, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The application became abandoned for a failure to reply in a timely manner to an Office action mailed September 23, 2005. A Notice of Abandonment was mailed on May 12, 2006. In response, on August 11, 2006, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b). Accordingly, the petition is **GRANTED**.

The application is being referred to Technology Center AU 1652 for consideration of the response filed August 11, 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/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

25 OCT 2007

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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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Burton A. Amernick
Connolly Bove Lodge & Hutz
1990 M Street NW, Suite 800
Washington DC 20036-3425

In re Application of: FUJIMOTO, Tamiji, et al.
U.S. Application No.: 10/362,534
PCT No.: PCT/JP01/07240
International Filing Date: 24 August 2001
Priority Date: 25 August 2000
Atty Docket No.: 21581-00293-US1
For: BACTERIAL TOXIN ADSORBING MATERIAL ... AND ADSORBER FORMED BY FILLING THE ADSORBED MATERIAL THEREIN

DECISION ON PETITION

This decision is issued in response to the "Response To Notification Of Abandonment" filed 16 November 2004, treated herein as a petition under 37 CFR 1.181 and 37 CFR 1.8(b) to withdraw the holding of abandonment. No petition fee is required.

BACKGROUND

On 24 August 2001, applicants filed international application PCT/JP01/07240. The international application claimed a priority date of 25 August 2000, and it designated the United States. On 28 February 2002, the International Bureau (IB) communicated a copy of the international application to the United States Patent and Trademark Office (USPTO).

On 31 January 2002, applicants filed a Demand for international examination that elected the United States. The deadline for submission of the basic national fee was therefore thirty months from the priority date, i.e., 25 February 2003.

On 25 February 2003, applicants filed a Transmittal Letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee and a translation of the international application into English.

On 05 June 2003, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Missing Requirements (Form PCT/DO/EO/905) indicating that a properly executed oath or declaration in compliance with 37 CFR 1.497 and the surcharge for filing this declaration later than thirty months after the priority date were required.

On 06 October 2004, the DO/EO/US mailed a Notification Of Abandonment (Form PCT/DO/EO/909) indicating that the application was abandoned for failure to file a timely response to the Notification Of Missing Requirements.

On 16 November 2004, applicants filed the "Response To Notification Of Abandonment" considered herein as a petition under 37 CFR 1.181 to withdraw the holding of abandonment. The petition asserts that, on 05 August 2003, applicants filed via facsimile a timely response to the Notification Of Missing Requirements, including a fully executed declaration and the authorization to charge applicants for the required surcharge. Copies of the materials purportedly filed on 05 August 2003 are included with the petition.

Applicants filed subsequent status inquiries herein on 13 May 2005, 16 August 2005, 17 October 2005, 24 January 2006, October 19, 2006, and 18 April 2007.[1]

DISCUSSION

The "Response To Notification Of Abandonment" states that a "Response To Notice To File Missing Parts Of Application" was filed by facsimile on 05 August 2003 and that a "copy of the Response To Notice to File Missing Parts as well as a copy of the Auto-Reply Facsimile Transmission issued from the U.S. Patent and Trademark Office is enclosed." The enclosed materials include: (1) a document entitled "Response To Notice To File Missing Parts Of Application" that contains the authorization to charge applications the required surcharge and states that it is accompanied by a declaration; (2) an executed declaration; (3) the facsimile cover letter used with the submission, which itemizes the filed materials, including the declaration, surcharge payment, and certificate of transmission; (4) the facsimile confirmation sheet from applicant's facsimile machine, which confirms a 12-page transmission on 05 August 2003; (5) an "Auto-Reply Facsimile Transmission" generated by the USPTO, which indicates receipt of a 12-page facsimile transmission on 05 August 2003 and bears a reduced-size version of applicant's facsimile transmission letter (identified as the "Received Cover letter"); and (6) a "Certificate of Transmission under 37 CFR 1.8" dated 05 August 2003. The Certificate of Transmission is executed by Toni J. Hancock, it itemizes the submitted materials (including the declaration and surcharge payment), and it identifies the transmission date as 05 August 2003. It is noted, however, that the materials itemized on the Certificate of Transmission and on the 05 August 2003 facsimile transmittal letter total only 10 pages (taking into account the duplicate copy of the "Response" document itemized on these forms), which is not consistent with the 12-page total set forth on the facsimile confirmation report and the "Auto-Reply Facsimile Transmission" generated by the USPTO.

37 CFR 1.8(b) states the following:

> 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] It is noted that, based on applicants' 16 August 2005 submission, applicants' Deposit Account was charged the required surcharge for filing the declaration later than thirty months after the priority date.

> (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.

With regard to item (1) above, the present petition was promptly filed.

With regard to item (2) above, the present petition includes a copy of the previously transmitted correspondence and certificate of transmission.

With regard to item (3) above, section 512 of the MPEP states the following: "If the person signing the statement did not sign the certificate of mailing, then the person signing the statement should explain how they have firsthand knowledge of the previous timely mailing or transmission." As noted above, the present petition, which is signed by Burton A. Amernick, states that the attached materials are copies of the materials submitted by facsimile on 5 August 2003. However, Mr. Amernick is not the person who executed the Certificate of Transmission for the 05 August 2003 transmission, and he does not state "how he has firsthand knowledge of the previous mailing or transmission," as required by the MPEP (the petition does not include a confirming statement from Toni J. Hancock, the person who signed the Certificate of Transmission). In addition, the petition does not include any explanation as to the disparity between the 10 pages itemized on the Certificate of Transmission and the facsimile transmittal sheet used 05 August 2003 and the 12 page total listed for such transmission on the facsimile confirmation reports.

Based on the above, the present submission does not satisfy the requirement of 37 CFR 1.8(b)(3). Accordingly, on the present record it cannot be concluded that the declaration and fee authorization included with the present petition were originally filed by facsimile on 05 August 2003 as a timely response to the Notification Of Missing Requirements.

CONCLUSION

For the reasons discussed above, applicants' petition to withdraw the holding of abandonment under 37 CFR 1.181 and 1.8(b) is **DISMISSED** without prejudice.

The application remains **ABANDONED**.

Any request for reconsideration must be filed within **TWO (2) MONTHS** of the mail date of the present decision and must include the materials required to satisfy 37 CFR 1.8(b)(3), as discussed above and in the MPEP.

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

Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

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0 9 APR 2008

Burton A. Amernick
Connolly Bove Lodge & Hutz
1990 M Street NW, Suite 800
Washington DC 20036-3425

In re Application of:
FUJIMOTO, Tamiji, et al.
U.S. Application No.: 10/362,534
PCT No.: PCT/JP01/07240
International Filing Date: 24 August 2001
Priority Date: 25 August 2000
Atty Docket No.: 21581-00293-US1
For: BACTERIAL TOXIN ADSORBING MATERIAL ... AND ADSORBER FORMED BY FILLING THE ADSORBED MATERIAL THEREIN

DECISION

This decision is issued in response to the "Request For Reconsideration Of Decision On Petition" filed 17 December 2007, treated herein as a renewed petition under 37 CFR 1.181 and 37 CFR 1.8(b) to withdraw the holding of abandonment and as a petition for revival under 37 CFR 1.137(b). Deposit Account No. 22-0185 will be charged the petition fee required for the petition under 37 CFR 1.137(b).

BACKGROUND

The procedural background for this application was set forth in the decision mailed on 25 October 2007. That decision dismissed applicants' petition for withdrawal of the holding of abandonment for failure to satisfy all the requirements of a grantable petition. Specifically, applicants had not provided an acceptable showing under 37 CFR 1.8(b) that a proper response to the Notification Of Missing Requirements (Form PCT/DO/EO/905) mailed 05 June 2003 had been timely submitted via facsimile.

On 19 December 2007, applicants filed the "Request For Reconsideration Of Decision On Petition" considered herein as a renewed petition under 37 CFR 1.181 and a petition for revival under 37 CFR 1.137(b).

DISCUSSION

1. Renewed Petition Under 37 CFR 1.181

The previous decision indicated that applicants petition under 37 CFR 1.181 was defective because: (1) it did not include a firsthand statement from the person who executed the certificate of transmission contained in the 05 August 2003 submission (Toni J. Hancock); and

(2) applicants had not provided an explanation as to the disparity between the 10 pages itemized in the 05 August 2003 transmission and the 12 pages apparently included in such transmission.

In the renewed petition, counsel provides an explanation as to why a firsthand statement from Ms. Hancock has not been provided (Ms. Hancock is no longer employed at counsel's firm); however, counsel is not able to definitively confirm the contents of the 12-page transmission submitted 05 August 2003 (as noted in the previous decision, the itemized materials total only 10 pages, while the transmission confirmation reports indicate a 12-page transmission). Because petitioner cannot definitively identify the complete contents of the 12-page facsimile transmission, the requirement of 37 CFR 1.8(b)(2) that petitioner provide a "copy of the previously mailed or transmitted correspondence and certificate" is not satisfied on the present record.

Because applicants have not satisfied all the requirements of 37 CFR 1.8(b), the timely facsimile transmission of a proper response to the Notification of Missing Requirements cannot be confirmed. Applicants' petition to withdraw the holding of abandonment under 37 CFR 1.181 based on such facsimile transmission is therefore appropriately dismissed.

2. Petition For Revival Under 37 CFR 1.137(b)

The present submission includes an alternative petition for revival under 37 CFR 1.137(b) to be acted on if the renewed petition under 37 CFR 1.181 is dismissed. As set forth above, the renewed petition under 37 CFR 1.181 is not considered grantable; accordingly, the alternative petition for revival under 37 CFR 1.137(b) is considered below.

The petition for revival includes the authorization to charge Deposit Account No. 22-0185 the required petition fee, and the "required reply" (in the form of a copy of an executed declaration and the authorization to charge applicants for the required surcharge) was included with the original petition under 37 CFR 1.181 filed 16 November 2004. In addition, the present petition includes a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional. This statement, in combination with the statements included in the previously filed petition under 37 CFR 1.181, are construed as the statement required under 37 CFR 1.137(b)(3), that is, a statement that the "entire delay in filing the required reply from the due day for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional." Applicant **must** contact this Office if this is not a proper interpretation of applicants' statements. Based on the above interpretation of applicants' statement, the requirements of 37 CFR 1.137(b)(3) are considered satisfied.

The requirements of 37 CFR 1.137(b) have been satisfied. Accordingly, the petition to revive the application under 37 CFR 1.137(b) is appropriately granted.

CONCLUSION

For the reasons discussed above, applicants' renewed petition to withdraw the holding of abandonment under 37 CFR 1.181 is **DISMISSED** without prejudice.

The alternative petition for revival of the application pursuant to 37 CFR 1.137(b) is **GRANTED**.

Deposit Account No. 22-0185 will be charged the required $1,540 petition fee.

This application is being referred to the National Stage Processing Division of the Office of PCT Operations for further processing in accordance with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 16 November 2004.

Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

23 JUN 2003

#3

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Michael J. Bujold
DAVIS & BUJOLD, P.L.L.C.
500 North Commercial Street, Fourth Floor
Manchester, NH 03101-1151

In re Application of :
SCHNEIDER, Rudolf *et al* :
U.S. Application No.: 10/362,535 :
PCT No.: PCT/EP01/08141 :
Int. Filing Date: 14 July 2001 :
Priority Date: 20 July 2000 :
Attorney Docket No.: ZAHFRI P503US :
For: ELECTROMAGNETICALLY ACTUATED, SINGLE-SURFACE FRICTION COUPLING, WITHOUT A ROTOR SLIP RING :

DECISION ON PETITION FOR REVIVAL UNDER 37 CFR 1.137(b)

This decision is in response to applicants' "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR § 1.137(b)" filed with the national stage papers on 21 February 2003, which is hereby **GRANTED** as follows:

The appropriate basic national fee and petition fee have been paid. Applicants state that "[t]he entire delay in filing the required reply from the due date until the filing of this petition was unintentional" as required by 37 CFR 1.137(b)(3). A terminal disclaimer is not required in this case. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

The surcharge fee of $130.00 pursuant to 37 CFR 1.492(e) and the processing fee of $130.00 pursuant to 37 CFR 1.492(f) have been charged to counsel's Deposit Account No. 04-0213 as authorized.

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 14 July 2001, under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 21 February 2003. This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

James Thomson
Attorney Advisor
PCT Legal Office

Tel.: (703) 308-6457

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6789706	2004-09-14	10362562	2003-08-04	Q74195

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

NOT Small Entity

	Fee	Code
◉	3 ½ year	(1551)
○	7 ½ year	(1552)
○	11 ½ year	(1553)

Small Entity

	Fee	Code
○	3 ½ year	(2551)
○	7 ½ year	(2552)
○	11 ½ year	(2553)

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Raja Saliba/	Date (YYYY-MM-DD)	2010-01-25
Name	Raja N. Saliba	Registration Number	43078

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. 6789706
Issue Date: September 14,2004
Application No. 10362562
Filed: August 4,2003
Attorney Docket No. Q74195

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

This is a decision on the electronic petition, filed January 25,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of January 25,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

22 JUL 2003

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COMMISSIONER FOR PATENTS
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George R. Repper
Rothwell, Figg, Ernst & Manbeck, p.c.
Suite 800, 1425 K St., NW
Washington, DC 20005

In re Application of	:	
Stretch	:	
Application No. 10/362,566	:	DECISION ON
PCT No.: PCT/AU00/00943	:	
Int. Filing Date: 08 August 2000	:	PETITION UNDER
Priority Date: None	:	
Atty. Docket No.: 2145-141	:	37 CFR 1.137(b)
For: Security Closure	:	

This is in response to the petition under 37 CFR 1.137(b) filed on 24 February 2003.

BACKGROUND

This international application was filed on 08 August 2000 and claimed no earlier priority date. The International Bureau transmitted a copy of the published international application to the USPTO on 14 February 2002. A Demand electing the United States was filed prior to the elapse of 19 months from the priority date. Accordingly, the 30 month time period for paying the basic national fee in the United States expired at midnight on 08 February 2003. This international application became abandoned with respect to the United States for failure to timely pay the required basic national fee.

DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed; (2) the petition fee as set forth in § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Regarding requirement (1), the petition was accompanied by the basic national fee.

Regarding requirement (2), the petition was accompanied by the petition fee.

Regarding requirement (3), the petition includes an appropriate statement.

Regarding requirement (4), no terminal disclaimer is required because the international filing date of this application is later than 8 June 1995.

DECISION

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

Petitioner's Deposit Account No. 02-2135 is being charged in the amount of $65.00 for the surcharge under 37 CFR 1.492(e), as authorized by the petition.

This application is being forwarded to the National Stage Processing Branch for further processing. The date of this application under 35 U.S.C. 371 (c) (1), (2) and (4) is **24 February 2003**.

Applicant is advised that, effective May 1, 2003, the Office has changed its correspondence address. Any further correspondence with respect to this matter deposited with the United States Postal Service on or after May 1, 2003 should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Leonard Smith
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (703) 308-6721
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ROTHWELL FIGG ERNST & MANBECK
SUITE 800, 1425 K STREET, N.W.
WASHINGTON, DC 20005

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SEP 22 2005

OFFICE OF PETITIONS

In re Patent No. 6,892,787 :
Issue Date: May 17, 2005 :
Application No. 10/362,566 : ON PETITION
Filed: February 24, 2003 :
Attorney Docket No. 2145-141 :

This is a decision on the petition under 37 CFR 1.183, filed August 26, 2004, which is being treated as a petition under 37 CFR 3.81(b) [1] to accept the correction of the assignees on the front page of the above-identified patent.

The petition is **granted**.

Telephone inquires concerning this matter may be directed to Wan Laymon at (571) 272-3220. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

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

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

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

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ROTHWELL, FIGG, ERNST & MANBECK, P.C.
1425 K STREET, N.W.
SUITE 800
WASHINGTON, DC 20005

MAR 25 2008

In re Application of :
ZHANG, LIANHUI et.al. :
Application No.: 10/362569 : DECISION ON
Filing or 371(c) Date: 07/21/03 : PETITION
Attorney Docket Number: 2977-140 :

This is a decision in response to the "Petition to Withdraw Holding of Abandonment," filed February 6, 2008. The petition is properly treated under 37 CFR 1.181(a). The delay in treating this petition is regretted.

This is **dismissed**.

Any further petition 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 [insert the applicable code section]." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowability, mailed August 1, 2007. The Notice set a non-extendable three (3) month period for reply. No reply having been received, the application became abandoned on November 2, 2007. A Notice of Abandonment was mailed December 3, 2007.

The Notice of Allowability

A review of the Notice of Allowability reveals that the Notice clearly required drawings. The Notice states: "CORRECTED DRAWINGS must be submitted."

Here, Applicant filed a reply on September 5, 2007, to with – the issue fee; however, corrected drawings were also required. Applicant failed to timely file corrected drawings. The application was properly abandoned.

MPEP 711.03(c)(I)(A)

The failure to receive a Notice of Abandonment does not alter the abandoned status of the application.

As to Applicant/Petitioner's assertion, that the Examiner also informed applicant in a telephone interview that the box for corrected drawings, which was marked in error, Petitioner is advised that there is no record of the interview in the application file. Petitioner is also directed to 37 CFR 1.2, which states:

> 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. (Emphasis supplied).

37 CFR 1.2

As the rule states,). "The action of the Patent and Trademark Office will be based exclusively on the written record in the Office." Id.

Conclusion

The evidence has been considered. Applicant has failed to demonstrate that withdrawing the holding of abandonment is appropriate. Accordingly, the application is properly held abandoned.

Alternative venue

Applicant may alternatively file a petition stating that the delay was unintentional. An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required fee. The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay can not make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revive under 37 CFR 1.137(b).

Further inquires with respect to filing a petition under 37 CFR §1.137 may be directed to the Office of Petitions at 571-272-3282 or addressed as follows:

By mail:	Director for Patents PO Box 1450 Alexandria, VA 22313-1450
By FAX:	(571) 273-8300 Attn: Office of Petitions
By hand:	Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 308-9250 Ext. 175.

Kay D. Pinkney
Application Assistance Unit
Office of Data Management

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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1425 K STREET, N.W.
SUITE 800
WASHINGTON DC 20005

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JUL 0 8 2008

OFFICE OF PETITIONS

In re Application of :
Lianhui ZHANG et al. :
Application No. 10/362,569 : DECISION ON PETITION
Filed: July 21, 2003 :
Attorney Docket No. **2977-140** :

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

The petition is **GRANTED**.

The application became abandoned for failure to submit corrected formal drawings in a timely manner in reply to the Notice of Allowability, mailed August 01, 2007, which set a period for reply of three (3) months. Accordingly, this application became abandoned on November 02, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of formal drawings; (2) the petition fee of $1540.00; and (3) a proper statement of unintentional delay. Accordingly, the reply to the Notice of Allowability of August 01, 2007 is accepted as having been unintentionally delayed

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at (571) 272-4231.

This application is being referred to Office of Data Management.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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AUG 23 2006

OFFICE OF PETITIONS

In re Application of :
David Collingwood et al :
Application No. 10/362,572 : DECISION GRANTING PETITION
Filed: February 24, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 115147 :

This is a decision on the petition, filed August 16, 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 23, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2612 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment and Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\FHicks\My Documents\470\Aug9\362572.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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BROWDY AND NEIMARK, P.L.L.C.
624 NINTH STREET, NW
SUITE 300
WASHINGTON DC 20001-5303

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SEP 2 0 2005

OFFICE OF PETITIONS

In re Application of :
Pierre VANDEN BRANDE et al. :
Application No. 10/362,585 : ON PETITION
Filed: August 18, 2003 :
Attorney Docket No. VANDENBRANDE 8 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 27, 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 December 21, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on March 22, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee of $750; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of December 21, 2004 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to David A. Bucci at (571) 272-7099 or in his absence, the undersigned at (571) 272-3217.

The application file is being referred to Technology Center AU 1753 for appropriate action on the concurrently filed amendment.

Brian Hearn
Petitions Examiner
Office of Petitions

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28 JUL 2006

Oliff & Berridge
PO Box 19928
Alexandria, VA 22320

In re Application of	:	
FISCHER, Franz et al.	:	
Application No.: 10/362,590	:	DECISION ON
PCT No.: PCT/CH02/00717	:	
Int. Filing Date: 20 December 2002	:	PETITION
Priority Date: 28 December 2001	:	
Docket No.: 115117	:	UNDER 37 CFR 1.181
For: TOOTHBRUSH AND PROCESS FOR PRODUCING SUCH A TOOTHBRUSH	:	

This decision is in response to "Second Request For Correction of PALM Records," filed in the above-captioned application on 19 April 2006.

BACKGROUND

On 20 December 2002, applicants filed international application PCT/CH02/00717, which claimed a priority date of 28 December 2001. A copy of the international application was transmitted to the Office by the International Bureau on 10 July 2003. The deadline for entry into the national phase in the United States was 28 June 2004.

On 24 February 2003, applicants submitted a transmittal letter for entry into that national phase in the United States accompanied by the basic national fee.

On 17 March 2003, applicants submitted a declaration of the inventors.

On 23 April 2003, applicants submitted a second copy of the declaration of the inventors.

On 13 May 2003, the Office mailed Notification of Acceptance (Form PCT/DO/EO/903) indicating that the requirements under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) were satisfied on 23 April 2003.

On 19 April 2006, applicants submitted a request for a corrected filing receipt.

DISCUSSION

The Notification of Acceptance mailed 13 May 2003, indicated that the declaration in compliance with 37 CFR 1.497(a)-(b) was received on 23 April 2003. A review of the file reveals that a declaration in compliance with 37 CFR 1.497(a)-(b) was originally received on 17 March 2003. As such, the completion date for the requirements under 35 U.S.C. §371(c)(1), (c)(2) and (c)(4) was 17 March 2003, not 23 April 2003.

CONCLUSION

For the reasons discussed above, applicant's petition under 37 CFR 1.181 is **GRANTED**.

The Notification of Acceptance (Form PCT/DO/EO/903) mailed 13 May 2003 is **VACATED**.

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

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision, including the mailing of a corrected Notification of Acceptance (Form PCT/DO/EO/903) and filing receipt. The application has a date of 17 March 2003 under 35 U.S.C. §371 (c)(1), (c)(2) and (c)(4).

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

18 NOV 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

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#12

Raymond C. Stewart
Birch, Stewart, Kolasch & Birch, LLP
P.O. Box 747
Falls Church, VA 22040-0747

In re Application of :
DE SOUZA et al. :
Application No.: 10/362,602 :
PCT No.: PCT/BR01/00096 : DECISION ON PETITION
Int. Filing Date: 07 August 2001 :
Priority Date: 08 August 2000 :
Attorney Docket No.: 0249-0126P :
For: COMPOUNDS IN THE FORM OF HOMODIMERIC, HETERODIMERIC AND/OR HOMO AND HETEROMULTIMERIC. . .

This decision is in response to applicants' "Petition to Accept Declaration Already Filed under 37 CFR 1.181" filed 30 October 2003, which is being treated as a petition under 37 CFR 1.497(d).

BACKGROUND

On 07 August 2001, applicants filed international application PCT/BR01/00096 which claimed a priority date of 08 August 2000. The international application listed: Russo Elisa Mannochio De Souza and Valter Freire Torres Russo as applicant/inventors. A Demand for international preliminary examination was filed prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States at midnight on 08 February 2003.

On 26 February 2003, applicants filed a transmittal for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); the international application; a preliminary amendment; and a petition to revive under 37 CFR 1.137(b).

On 21 March 2003, applicants filed a combined declaration and power of attorney executed by Elisa Mannochio De Souza Russo and Valter Freire Torres Russo.

On 11 June 2003, the Office of PCT Legal Administration mailed "Decision on Petition" granting the petition to revive under 37 CFR 1.137(b). The decision indicated that the declaration filed 21 March 2003 was defective, in that, the declaration identifies a different inventor than that indicated in the published international application. Namely, the declaration identifies and is signed by "Elisa Mannochio De Souza Russo" whereas the international application identifies "Russo Elisa Mannochio De Souza."

On 24 June 2003, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

On 30 September 2003, the Office of PCT Legal Administration mailed "Communication" indicating that applicants' "Letter Responding to Notification of Missing Requirements under 35 U.S.C. 371 in the United States Designated/Elected Office" filed 24 July 2003 was not a proper response to the Notification of Missing Requirements mailed 24 June 2003.

On 30 October 2003, applicants filed the present petition.

DISCUSSION

In order to correct an error in naming the inventor(s) made during the international stage in the national stage, a request under 37 CFR 1.497(d) or a showing that a 92bis change was made prior to the National stage filing is required. In the instant case, a Notification of the Recording of a Change (Form PCT/IB/306) has been forwarded by the International Bureau correcting the name of the first inventor to **Elisa Mannochio De Souza Russo**. Therefore, the declaration submitted on 21 March 2003 and executed by Elisa Mannochio De Souza Russo and Valter Freire Torres Russo is accepted.

CONCLUSION

For the reasons discussed above, applicants' petition under 37 CFR 1.497(d) is **DISMISSED** as moot.

A review of the application papers reveals that applicant completed all the requirements of 35 U.S.C. 371 for entry into the national stage. This application will be given an international application filing date of 07 August 2001 and a date of **21 March 2003** under 35 U.S.C. 371.

The application is being returned to the United States Designated/Elected Office for further processing in accordance with this decision.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Telephone: (703) 308-6314
Facsimile: (703) 308-6459

24 MAR 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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Lisa A. Bongiovi
McCarter & English, LLP.
185 Asylum Street
City Place I
Hartford, Connecticut 06103

In re Application of :
CRAWFORD et al. :
Application No.: 10/362,612 :
PCT No.: PCT/AU01/01022 :
Int. Filing: 17 August 2001 : DECISION ON PETITION
Priority Date: 22 August 2000 :
Attorney Docket No.: 451145.0006 :
For: ANTI-GRAFFITI PAINT :
FORMULATION AND REMOVAL

This decision is in response to applicants' "Petition for Revival of an Application for Patent Abandoned Unintentionally under 37 CFR 1.137(b)" and "Petition under 37 CFR 1.47(a)" filed 24 February 2005 in the above-captioned application. The requisite $750 petition fee for the filing of a petition under 37 CFR 1.137(b) and the requisite $200 petition fee have been submitted. The above captioned national stage application became abandoned on 30 July 2003 for failure to submit an oath or declaration within the time period set forth in the Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) mailed 30 May 2003.

BACKGROUND

On 17 August 2001, applicants filed international application PCT/AU01/01022, which claimed a priority date 22 August 2000. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 28 February 2002. Pursuant to 37 CFR 1.495, the period for paying the basic national fee in the United States expired 30 months from the priority date, 24 February 2003.

On 24 February 2003, applicants filed a transmittal letter for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a copy of the international application; and a preliminary amendment.

On 30 May 2003, the United Stated Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The

notification set a two-month time limit in which to respond.

On 02 February 2004, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Abandonment indicating that the application was abandoned for failure to file a complete response to the Notification of Missing Requirements mailed 30 May 2003 within the time period set therein.

On 24 February 2005, applicants filed a "Petition for Revival of an Application for Patent Abandoned Unintentionally under 37 CFR 1.137(b)" and a Petition under 37 CFR 1.47(a).

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional delay must be accompanied by: (1) the required reply, (2) the petition fee required by law, (3) a statement that the "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional," and (4) any terminal disclaimer and fee required pursuant to 37 CFR 1.137(c). Applicants have satisfied Items (2)-(4).

In order to comply with the proper response requirement of item (1) above for revival under 37 CFR 1.137(b), applicants submitted the present Petition Under 37 CFR 1.47(a). Under the present circumstances, in order for the response requirement, item (1) above, to be satisfied, the petition to accept the application without the signature of Ian Crawford must be grantable.

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and behalf of the non-signing joint inventor. Items (1), (3), and (4) have been satisfied.

Regarding item (2) above, petitioner states that Ian Crawford has refused to sign the application. Section 409.03(d) of the Manual of Patent Examining Procedure (M.P.E.P.), **Proof of Unavailability or Refusal**, states, in part:

> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Proof that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated

> that the application papers should not be sent, may be sufficient. When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal.
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition.

A review of the present petition reveals that petitioner has not shown that a bona fide attempt was made to present the application papers (specification, claims, and drawings) to Ian Crawford. The Declaration of Kenneth J. McInnes states that, "Mr. Pearson provided Mr. Crawford, on May 28, 2003, the formal documents executed by Applicant and requested that Mr. Crawford sign the documents . . . " However, it is unclear from the present petition and accompanying documents whether Ian Crawford has been presented with a complete copy of the application papers as required. The statements made with regards to the efforts to reach Ian Crawford constitutes secondhand knowledge, at best, in that the majority of the actions to which petitioner is averring to were conducted by Peter Leslie Pearson. As stated above, where a refusal of the inventor to sign the application papers is alleged, a statement of facts is needed from a person having first hand knowledge of the facts that a complete copy of the application papers (specification, claims, and drawings) were sent to Ian Crawford, and when such papers were sent.

For the above reasons, it would not be appropriate to accept this application without the signature of Ian Crawford at this time.

CONCLUSION

The petition under 37 CFR 1.137(b) is **DISMISSED** without prejudice and the application remains **ABANDONED**.

The petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTH** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a) and 37 CFR 1.137(b)." No additional petition fee is required.

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

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03 JUN 2005

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In re Application of
CRAWFORD et al.
Application No.: 10/362,612
PCT No.: PCT/AU01/01022
Int. Filing: 17 August 2001
Priority Date: 22 August 2000
Attorney Docket No.: 451145.0006
For: ANTI-GRAFFITI PAINT FORMULATIONS AND REMOVAL

DECISION ON PETITION

This decision is in response to applicants' "Renewed Petition under 37 CFR 1.47(a) and 37 CFR 1.137(b)" filed 25 May 2005.

The petition for status under 37 CFR 1.47(a) is moot since the declaration filed 25 May 2005 with the present renewed petition was executed by the named inventor, the previous non-signing inventor, Ian Crawford. The declaration filed 25 May 2005 is acceptable under 37 CFR 1.497. For the reasons above, the renewed petition under 37 CFR 1.47(a) is dismissed as moot.

Applicants' statement that the "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicants have submitted an executed declaration and power of attorney and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America. The petition under 37 CFR 1.137(b) is **GRANTED**.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision. The application has an international filing date of 17 August 2001 under 35 U.S.C. 363 and a date of **25 May 2005** under 35 U.S.C. 371(c).

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12 JAN 2005

46

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In re Application of :
HAMMOND, Geoffrey Robert *et al* :
U.S. Application No.: 10/362,615 : **DECISION ON PETITION**
PCT No.: PCT/GB01/03826 :
Int. Filing Date: 23 August 2001 : **TO WITHDRAW HOLDING**
Priority Date: 25 August 2000 :
Attorney Docket No.: 102792-68 : **OF ABANDONMENT**
For: PROCESS AND MOULD FOR :
THERMOFORMING CONTAINERS :

This decision is in response to the papers filed via facsimile on 29 November 2004. The papers are treated as a petition to withdraw the holding of abandonment. No fee is required.

BACKGROUND

On 10 June 2003, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b), additional claim fees of $207.00, and a $65.00 surcharge fee pursuant to 37 CFR 1.492(e) was required. A two-month time limit in which to respond was set with extensions of time available.

On 06 October 2004, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909) for failing to respond to the Form PCT/DO/EO/905 mailed 10 June 2003 within the time period set therein.

On 29 November 2004, applicant filed via facsimile an executed declaration which was accompanied by, *inter alia*, a document titled "Communication Re: Filing of Declaration on a Date Later than the Filing Date of the Application" and authorization to charge any additional fees to Deposit Account No. 14-1263.

DISCUSSION

In the papers filed 29 November 2004, applicants submitted a declaration in compliance with 37 CFR 1.497(a) and (b) and request that the declaration be made part of the record. However, the above-captioned application was abandoned on 06 October 2004 for failure to timely respond to the Form PCT/DO/EO/905 mailed 10 June 2003. Applicants state that "[t]o date, the undersigned representative has not yet

received the "Notice to File Missing Parts of Application" from the USPTO.

Therefore, the papers filed 29 November 2004 are being treated as a petition to withdraw the holding of abandonment based on nonreceipt of an Office communication. *See* § 711.03(c) Manual of Patent Examining Procedure (MPEP).

The showing required to establish the failure to receive an Office communication consists of: (1) a statement from the practitioner declaring that the Office communication was not received by the practitioner; (2) a statement attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received; and, (3) a copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioners' statement.[1]

Applicants' statement above is sufficient to satisfy item (1).

However, applicants failed to provide the requisite statement required for a grantable petition under item (2), or submit the evidence required for item (3). Hence, applicants have not met all of the requirements required to establish nonreceipt of an Office action.

CONCLUSION

For the reason discussed above, applicants' petition to withdraw the holding of abandonment is **DISMISSED** without prejudice.

The subject application remains **ABANDONED**.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition for Withdrawing the Holding of Abandonment." No fee is required. Applicants may also consider filing a petition to revive under 37 CFR 1.137(a) or (b).

---

[1] § 711.03(c) MPEP states, in part:

> A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action.

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

James Thomson

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16 MAR 2005
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In re Application of :
HAMMOND, Geoffrey Robert *et al* :
U.S. Application No.: 10/362,615 : **DECISION ON RENEWED**
PCT No.: PCT/GB01/03826 :
Int. Filing Date: 23 August 2001 : **PETITION TO WITHDRAW**
Priority Date: 25 August 2000 :
Attorney Docket No.: 102792-68 : **HOLDING OF ABANDONMENT**
For: PROCESS AND MOULD FOR :
THERMOFORMING CONTAINERS :

This decision is in response to the "Renewed Petition for Withdrawing the Holding of Abandonment" filed on 25 January 2005.

BACKGROUND

On 12 January 2005, a decision dismissing applicants' petition to withdraw the holding of abandonment for failure to receive an office action was mailed.

On 25 January 2005, applicants' submitted a renewed petition which was accompanied by, *inter alia*, a copy of the documents filed 29 November 2004; an "Affidavit of Nancy Manfredi Under 35 U.S.C. 1.132" ("Decl."); a copy of counsel's computer docket record for the subject application titled "Country Application"; and a copy of counsel's Docket Report for all applications for the period 07 August 2003 through 14 August 2003.

DISCUSSION

As previously indicated, the showing required to establish the failure to receive an Office communication consists of: (1) a statement from the practitioner declaring that the Office communication was not received by the practitioner; (2) a statement attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received; and, (3) a copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioners' statement. *See* MPEP § 711.03(c).

Applicants failed to provide the requisite statement required for a grantable petition under item (2), or submit the evidence required for item (3) in the initial petition filed 29 November 2004.

In the renewed petition, applicants submitted an affidavit by Ms. Manfredi who states that she is "the sole person permitted to make entries and enter changes to our docketing system." Decl. at ¶ 2. Ms. Manfredi checked the docket records in the above-captioned application for the Notification of Missing Requirements mailed 10 June 2003 and states that "we have to date . . . received no copy of the Notice to File Missing Parts, or any communication." *Id.* at ¶ 4. This statement satisfies item (2).

Concerning item (3), petitioners submitted a computer generated log for the above-captioned application titled "Country Application." A review of this record verifies that there is no evidence that the Notification of Missing Requirements mailed 10 June 2003 in the subject application was received and docketed. However, this docket record alone is insufficient to satisfy item (3). A single document containing only docket information for one application showing no other corroborating information to add weight and credibility to the data contained therein can be too easily manipulated. In order to satisfy the docket record requirement to prove nonreceipt of an Office communication, a copy of counsel's docket records for the date upon which a response to the Notification of Missing Requirements was due (*i.e.*, 10 August 2003) is required.

Here, applicants submitted such a docket record titled "Report Selection." Ms. Manfredi states that this "lists all outstanding actions due for any of the patent attorneys in our firm for the time interval inclusive of 07 August 2003 through 14 August 2003." *Id.* A review of this record shows that it is set for the period discussed above, but it contains no data. Nonetheless, applicants claim that this report "attests, all docketed actions which fell due within those dates have been completed, hence the 'blank' print-out." This evidence is sufficient to satisfy item (3).

Accordingly, applicants have now met the requirements required to establish nonreceipt of the Notification of Missing Requirements mailed 10 June 2003.

CONCLUSION

In view of the above, applicants' renewed petition to withdraw the holding of abandonment is **GRANTED**.

The Notification of Abandonment mailed 06 October 2004 is hereby **VACATED**.

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 23 August 2001, under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 29 November 2004.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

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#3

28 MAY 2003

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Incyte Genomics, Inc.
3106 Porter Drive
Palo Alto, CA 94304

In re Application of GRIFFIN et al
U.S. Application No.: 10/362,628
Int. Application No.: PCT/US01/26365
Int. Filing Date: 22 August 2001
Priority Date: 23 August 2000
Attorney Docket No.: PI-0203 USN
For: LIPID METABOLISM ENZYMES

DECISION

This is in response to applicant's "Communication Re Inventor Name Change" filed 21 February 2003, which is being treated as a petition under 37 CFR 1.182.

BACKGROUND

On 22 August 2001, applicant filed international application PCT/US01/26365, which claimed priority of an earlier United States application filed 23 August 2000. A Demand for international preliminary examination, in which the United States was elected, was filed on 19 March 2002, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 23 February 2003.

On 21 February 2003, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1), an executed declaration, and the present petition under 37 CFR 1.182.

05/29/2003 MKAYPAGH 00000145 090108 10362628

01 FC:1460 130.00 CH

DISCUSSION

Inventors Chandra Patterson and Narinder Walia in the international application are listed as Chandra Arvizu and Narinder Chawla in the declaration. Although applicant has submitted a copy of a request under PCT Rule 92*bis* filed with the International Bureau (IB), the DO/EO/US has not received a Notification of the Recording of a Change (Form PCT/IB/306) which indicates that the requested name changes have been accepted for recording.

MPEP 605.04(c) states in relevant part,

> In cases where an inventor's name has been changed after the application has been filed and the inventor desires to change his or her name on the application, he or she must submit a petition under 37 CFR 1.182. . . . The petition must include an appropriate petition fee and an affidavit signed with both names and setting forth the procedure whereby the change of name was effected, or a certified copy of the court order.

Applicant has filed a petition under 37 CFR 1.182 along with affidavits signed with both names and setting forth the procedure whereby the change of name was effected. The requisite petition fee will be charged to Deposit Account 09-0108 as authorized in the petition.

CONCLUSION

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

The application has an International Filing Date of 22 August 2001 and a date under 35 U.S.C. 371(c) of 21 February 2003.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

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SNELL & WILMER LLP (OC)
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Mail Date: 04/21/2010

Applicant	: Takeo Miyata	: DECISION ON REQUEST FOR
Patent Number	: 7623488	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/362,648	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/04/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1054** 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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02 APR 2007

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In re Application of
MESKOURIS et al.
Application No.: 10/362,649
PCT No.: PCT/EP01/09430
Int. Filing Date: 16 August 2001
Priority Date: 23 August 2000
Attorney Docket No.: 5725-3
For: METHOD FOR DETERMINING THE EARTHQUAKE PROTECTION OF BUILDINGS

DECISION

This decision is in response to applicants' renewed petition under 37 CFR 1.181 filed on 23 January 2007

BACKGROUND

On 16 August 2001, applicants filed international application PCT/EP01/09430, which claimed a priority date of 23 August 2000. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 28 February 2002. A Demand for international preliminary examination, in which the United States was elected, was filed on 20 March 2002, which was within nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 24 February 2003 (23 February 2003 being a Sunday).

On 20 February 2003, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee, an assertion of small entity status, and an English translation of the international application as filed.

On 29 July 2003, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that applicant must provide an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(e). The NOTIFICATION set a two-month extendable period for reply.

On 20 October 2004, the DO/EO/US mailed a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) indicating that the application was abandoned as to the United States of America for failure to respond to the NOTIFICATION OF MISSING REQUIREMENTS mailed 29 July 2003.

On 10 July 2006, applicants filed a declaration of inventors, the required surcharge, and a petition to revive under 37 CFR 1.137(b).[1]

On 25 August 2006, applicants filed a submission which was properly treated as a petition under 37 CFR 1.181.[1]

On 20 December 2006, a decision was mailed dismissing applicants' petition under 37 CFR 1.181 and holding in abeyance applicants' petition under 37 CFR 1.137(b) filed 10 July 1006 and applicants' request for refund filed 10 July 2006 until a final decision was reached on the petition under 37 CFR 1.181. The decision also indicated that the date-stamped receipt submitted by applicants would be sufficient to establish that on 18 November 2004, the United States Designated/Elected Office (DO/EO/US) received, *inter alia*, a petition to revive and an executed declaration, however, applicant had not provided a true copy of the documents filed 18 November 2004.

On 23 January 2007, applicants filed the instant renewed petition under 37 CFR 1.181.[1] The petition is accompanied by copies of papers purportedly filed 18 November 2004 in the instant application.

DISCUSSION

Petition Under 37 CFR 1.181 filed 25 August 2006

Upon further review of the application file, it has been determined that the portion of the decision that indicated that the date-stamped receipt submitted by applicants would be sufficient to establish that on 18 November 2004, the United States Designated/Elected Office (DO/EO/US) received, *inter alia*, a petition to revive and an executed declaration was incorrect. The date-stamped receipt submitted by applicants does not establish that the papers filed on that date were for the instant application. The date-stamped receipt indicates a serial number of "10/381,391", a title of "CLOTHING PIECE", the applicant as "Michael RESCHEWITZ", and the confirmation number as 3413, none of which correspond to the instant application. Thus, a final decision on the petition under 37 CFR 1.181 filed 25 August 2006 can be reached. The petition is DISMISSED without prejudice. Accordingly, that portion of the decision mailed 20 December 2006 indicated as incorrect is hereby VACATED.

Petition Under 37 CFR 1.137(b) filed 10 July 2006

A petition to revive the present application under 37 CFR 1.137(b) must include:

(1) The required reply;

(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 was unintentional.

As to item (1), applicant submitted a declaration of inventors and the surcharge on 10

---

[1]Papers in IFW.

July 2006.

As to item (2), applicant submitted the petition fee on 10 July 2006.

As to item (3), the required statement has been provided.

A review of the application file reveals that, with the filing of the present petition and accompanying papers, a proper response has been submitted and all of the requirements of 37 CFR 1.137(b) for revival have been satisfied and revival is therefore appropriate.

Request for Refund filed 25 August 2006

Applicants request a refund of the petition fee and surcharge paid on 10 July 2006. However, since the petition under 37 CFR 1.181 has been dismissed, the petition fee and surcharge paid on 10 July 2006 are required. The petition fee and surcharge were incorrectly refunded to applicants' credit card on 28 February 2007. The petition fee ($750) and the surcharge ($65) have been charged to Deposit Account 50-1281.

CONCLUSION

The petition under 37 CFR 1.181 is **DISMISSED** without prejudice for the reasons set forth above.

The petition under 37 CFR 1.137(b) is **GRANTED** for the reasons set forth above.

The request for refund is **REFUSED** for the reasons set forth above.

If reconsideration on the merits of this petition is desired, a proper reply must be filed within TWO (2) MONTHS form the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

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

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20 DEC 2006

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In re Application of	:	
MESKOURIS et al.	:	
Application No.: 10/362,649	:	DECISION
PCT No.: PCT/EP01/09430	:	
Int. Filing Date: 16 August 2001	:	
Priority Date: 23 August 2000	:	
Attorney Docket No.: 5725-3	:	
For: METHOD FOR DETERMINING THE EARTHQUAKE PROTECTION OF BUILDINGS	:	

This decision is in response to applicants' petition under 37 CFR 1.137(b) filed 10 July 2006 and applicants' submission filed 25 August 2006, which has properly been treated as a petition under 37 CFR 1.181.

BACKGROUND

On 16 August 2001, applicants filed international application PCT/EP01/09430, which claimed a priority date of 23 August 2000. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 28 February 2002. A Demand for international preliminary examination, in which the United States was elected, was filed on 20 March 2002, which was within nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 24 February 2003 (23 February 2003 being a Sunday).

On 20 February 2003, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee, an assertion of small entity status, and an English translation of the international application as filed.

On 29 July 2003, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that applicant must provide an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(e). The NOTIFICATION set a two-month extendable period for reply.

On 20 October 2004, the DO/EO/US mailed a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) indicating that the application was abandoned as to the United States of

America for failure to respond to the NOTIFICATION OF MISSING REQUIREMENTS mailed 29 July 2003.

On 10 July 2006, applicants filed a declaration of inventors, the required surcharge, and a petition to revive under 37 CFR 1.137(b).

On 25 August 2006, applicants filed a submission which has properly been treated as a petition under 37 CFR 1.181.

DISCUSSION

The submission filed 25 August 2006 states that petitioner filed a petition to revive the instant application on 18 November 2004 and is accompanied by a receipt date-stamped 18 November 2004 by the USPTO. This has properly been treated as a petition under 37 CFR 1.181 to accept the documents listed on the date-stamped receipt as having been originally filed in the USPTO on 18 November 2004.

The date-stamped receipt submitted by applicants would be sufficient to establish that on 18 November 2004, the United States Designated/Elected Office (DO/EO/US) received, *inter alia*, a petition to revive and an executed declaration. However, applicant has not provided a true copy of the documents filed 18 November 2004.

A decision on applicants' request for refund filed with the 25 August 2006 submission is held in abeyance until a final decision is reached on the petition under 37 CFR 1.181. A decision on the petition under 37 CFR 1.137(b) filed 10 July 2006 is also held in abeyance.

CONCLUSION

The petition under 37 CFR 1.181 is **DISMISSED** for the reasons set forth above.

If reconsideration on the merits of this petition is desired, a proper reply must be filed within TWO (2) MONTHS form the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

A proper reply is a grantable renewed petition that includes a true copy of all of the papers alleged to have been filed 18 November 2004.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria,

Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301
Facsimile: (571) 273-0459

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

02 APR 2007

GRIFFIN & SZIPL, PC
SUITE PH-1
2300 NINTH STREET, SOUTH
ARLINGTON VA 22204

In re Application of MESKOURIS et al. Application No.: 10/362,649 PCT No.: PCT/EP01/09430 Int. Filing Date: 16 August 2001 Priority Date: 23 August 2000 Attorney Docket No.: 5725-3 For: METHOD FOR DETERMINING THE EARTHQUAKE PROTECTION OF BUILDINGS	:	DECISION

This decision is in response to applicants' renewed petition under 37 CFR 1.181 filed on 23 January 2007

BACKGROUND

On 16 August 2001, applicants filed international application PCT/EP01/09430, which claimed a priority date of 23 August 2000. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 28 February 2002. A Demand for international preliminary examination, in which the United States was elected, was filed on 20 March 2002, which was within nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 24 February 2003 (23 February 2003 being a Sunday).

On 20 February 2003, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee, an assertion of small entity status, and an English translation of the international application as filed.

On 29 July 2003, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that applicant must provide an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(e). The NOTIFICATION set a two-month extendable period for reply.

On 20 October 2004, the DO/EO/US mailed a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) indicating that the application was abandoned as to the United States of America for failure to respond to the NOTIFICATION OF MISSING REQUIREMENTS mailed 29 July 2003.

On 10 July 2006, applicants filed a declaration of inventors, the required surcharge, and a petition to revive under 37 CFR 1.137(b).[1]

On 25 August 2006, applicants filed a submission which was properly treated as a petition under 37 CFR 1.181.[1]

On 20 December 2006, a decision was mailed dismissing applicants' petition under 37 CFR 1.181 and holding in abeyance applicants' petition under 37 CFR 1.137(b) filed 10 July 1006 and applicants' request for refund filed 10 July 2006 until a final decision was reached on the petition under 37 CFR 1.181. The decision also indicated that the date-stamped receipt submitted by applicants would be sufficient to establish that on 18 November 2004, the United States Designated/Elected Office (DO/EO/US) received, *inter alia*, a petition to revive and an executed declaration, however, applicant had not provided a true copy of the documents filed 18 November 2004.

On 23 January 2007, applicants filed the instant renewed petition under 37 CFR 1.181.[1] The petition is accompanied by copies of papers purportedly filed 18 November 2004 in the instant application.

DISCUSSION

Petition Under 37 CFR 1.181 filed 25 August 2006

Upon further review of the application file, it has been determined that the portion of the decision that indicated that the date-stamped receipt submitted by applicants would be sufficient to establish that on 18 November 2004, the United States Designated/Elected Office (DO/EO/US) received, *inter alia*, a petition to revive and an executed declaration was incorrect. The date-stamped receipt submitted by applicants does not establish that the papers filed on that date were for the instant application. The date-stamped receipt indicates a serial number of "10/381,391", a title of "CLOTHING PIECE", the applicant as "Michael RESCHEWITZ", and the confirmation number as 3413, none of which correspond to the instant application. Thus, a final decision on the petition under 37 CFR 1.181 filed 25 August 2006 can be reached. The petition is DISMISSED without prejudice. Accordingly, that portion of the decision mailed 20 December 2006 indicated as incorrect is hereby VACATED.

Petition Under 37 CFR 1.137(b) filed 10 July 2006

A petition to revive the present application under 37 CFR 1.137(b) must include:

(1) The required reply;

(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 was unintentional.

As to item (1), applicant submitted a declaration of inventors and the surcharge on 10

---

[1]Papers in IFW.

July 2006.

As to item (2), applicant submitted the petition fee on 10 July 2006.

As to item (3), the required statement has been provided.

A review of the application file reveals that, with the filing of the present petition and accompanying papers, a proper response has been submitted and all of the requirements of 37 CFR 1.137(b) for revival have been satisfied and revival is therefore appropriate.

Request for Refund filed 25 August 2006

Applicants request a refund of the petition fee and surcharge paid on 10 July 2006. However, since the petition under 37 CFR 1.181 has been dismissed, the petition fee and surcharge paid on 10 July 2006 are required. The petition fee and surcharge were incorrectly refunded to applicants' credit card on 28 February 2007. The petition fee ($750) and the surcharge ($65) have been charged to Deposit Account 50-1281.

CONCLUSION

The petition under 37 CFR 1.181 is **DISMISSED** without prejudice for the reasons set forth above.

The petition under 37 CFR 1.137(b) is **GRANTED** for the reasons set forth above.

The request for refund is **REFUSED** for the reasons set forth above.

If reconsideration on the merits of this petition is desired, a proper reply must be filed within TWO (2) MONTHS form the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

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

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : Sep. 2, 2005

TO SPE OF : ART UNIT 3617 (*Exr. is Ajay Vasudeva*)

SUBJECT : Request for Certificate of Correction on Patent No.: 6,910,434

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.

Please see the IFW code cocin, and the claims.

sp

Thank You For Your Assistance

Certificates of Correction Branch

Tel. No. 703-308-9390 x120

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

Note your decision on the appropriate box.

☑ **Approved** — **All** changes apply.

☐ **Approved in Part** — Specify below which changes **do not** apply.

☐ **Denied** — State the reasons for denial below.

Comments:

_____

_____

_____

_____

_____

SPE 3617 **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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/362,693	02/26/2003	Kazuhiro Yamada	72478-4600	4629

21611 7590 03/20/2007

SNELL & WILMER LLP (OC)
600 ANTON BOULEVARD
SUITE 1400
COSTA MESA, CA 92626

EXAMINER	
SHAPIRO, LEONID	

ART UNIT	PAPER NUMBER
2629	

MAIL DATE	DELIVERY MODE
03/20/2007	PAPER

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

UNITED STATES DEPARTMENT OF COMMERCE
U.S. Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450

10,362,693

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.

EXAMINER	
A. Eisen	
ART UNIT	**PAPER**
2629	20070316

DATE MAILED:

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

Commissioner for Patents

The Certificate of Correction filed on 26 February 2007 has been approved.

Alexander Eisen
SPE
Art Unit: 2629

SPE: A. Eisen

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/9/07

TO SPE OF : ART UNIT 2629

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/362,693 Patent No.: 7116289

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: _____

_____

_____

_____

_____

[signature] 2629

SPE **Art Unit**

Approved 3/16/07 BS

Patent
72478-4600

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Yamada

Patent No.: 7,116,289

Issued: October 3, 2006

For: PLASMA DISPLAY DRIVING METHOD AND DEVICE

February 26, 2007

Costa Mesa, California 92626-7689

REQUEST FOR CERTIFICATE OF CORRECTION

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

Dear Sirs:

Attached is a proposed Certificate of Correction to be issued in the above-identified case.

In the Claims:

In Claim 25, Column 40, line 67, after "intersect;" insert --and--.

In Claim 27, Column 41, line 22, after "a" insert --gap--.

No fee is required, since this represent U.S. Patent Office errors.

If there are any questions with regard to this matter, please contact the undersigned attorney at the listed telephone number.

Very truly yours,

SNELL & WILMER L.L.P.

Joseph W. Price
Registration No. 25,124
600 Anton Boulevard, Suite 1400
Costa Mesa, CA 92626-7689
Phone: (714) 427-7420
Fax: (714) 427-7799

(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : **7,116,289**

DATED : **October 3, 2006**

INVENTOR(S) : **Yamada**

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

In the Claims:
In Claim 25, Column 40, line 67, after "intersect;" insert --and--.
In Claim 27, Column 41, line 22, after "a" insert --gap--.

MAILING ADDRESS OF SENDER (Please do not use customer number

Joseph W. Price
SNELL & WILMER LLP
600 Anton Boulevard, Suite 1400
Costa Mesa, CA 92626

PATENT NO. 7,116,289

No. of additional copies

P15/REV03

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OFFICE OF PETITIONS

Basell USA Inc.
Intellectual Property
912 Appleton Road
Elkton MD 21921

In re Application of :
Collina, et al. : DECISION ON APPLICATION
Application No. 10/362,695 : FOR PATENT TERM ADJUSTMENT
Filed: February 26, 2003 :
Atty. Dkt. No.: TC 5467(US) :

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR § 1.705(b)," filed August 6, 2007.

The Determination of Patent Term Adjustment under 35 U.S.C. 154(b), mailed May 7, 2007, indicated a patent term adjustment (PTA) to date of zero days. An issue fee payment was received August 17, 2005. The Notice of Allowance upon which the submission of the issue fee was based was withdrawn on July 12, 2006. A new Notice of Allowance was mailed May 7, 2007.

Applicants argue that the adjustment of zero days is incorrect as the application is entitled to an adjustment for failure to issue the patent within four months of the date of receipt of the issue fee payment pursuant to 37 CFR 1.702(a)(4).

Applicants herein have not disputed the patent term adjustment (PTA) accorded to date (zero days). Instead, 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 four months of the date of submission of the issue fee payment. 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 for Office failure to issue the patent within four months of the date of submission of issue fee payment. *See*, 37 CFR 1.705(d).

It is noted that review of the calculation of adjustment reveals an error in the reduction of PTA as it relates to the response to non-final Office action filed March 19, 2007. The prior calculation errantly entered March 18, 2007 as the date upon which the response was received, rather than March 19, 2007, the date of actual receipt. As a result, the period of reduction of

PTA is actually 84 days and not 83 days as previously noted. The period of reduction began December 26, 2006, the day after the date that is three months after the date that the non-final Office action was mailed, and ended March 19, 2007, the date the reply was received.

Accordingly, the correct PTA at the time of the allowance is zero days (67 days of adjustment reduced 119 days for applicants' delays).

Applicants are further advised that the patent term adjustment indicated in the patent will include any additional patent term accrued pursuant to §§ 1.702(a)(4) and 1.702(b).

The required Patent Term Adjustment application fee of $200.00 has been charged to applicants' deposit account.

Applicants 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 four months of the date of receipt of the issue fee payment pursuant to 37 CFR 1.702(a)(4) and 1.703(a)(6). A copy of this decision should accompany the request. Applicants may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of 37 CFR 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

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

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

Kery A Fries

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

Day : Sunday
Date: 9/30/2007

PALM INTRANET

Time: 09:49:51

PTA Calculations for Application: 10/362695			
Application Filing Date:	02/26/2003	PTO Delay (PTO):	67
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	118
Post-Issue Petitions:	0	Total PTA (days):	0
PTO Delay Adjustment:	-1		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
70	09/30/2007	ADJUSTMENT OF PTA CALCULATION BY PTO		1	
63	05/07/2007	MAIL NOTICE OF ALLOWANCE			
62	05/07/2007	MAIL EXAMINER'S AMENDMENT			
61	04/17/2007	ISSUE REVISION COMPLETED			
60	04/17/2007	DOCUMENT VERIFICATION			
59	04/17/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
58	04/16/2007	EXAMINER'S AMENDMENT COMMUNICATION			
57	04/16/2007	NOTICE OF ALLOWABILITY			
56	03/28/2007	DATE FORWARDED TO EXAMINER			
55	03/18/2007	RESPONSE AFTER NON-FINAL ACTION		83	53
54	03/18/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
53	09/25/2006	MAIL NON-FINAL REJECTION			
52	09/18/2006	NON-FINAL REJECTION			
51	07/12/2006	DATE FORWARDED TO EXAMINER			
50	07/12/2006	WITHDRAWAL OF NOTICE OF ALLOWANCE			
49	07/12/2006	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
48	07/12/2006	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
47	07/10/2006	RECEIPT INTO PUBS			
46	07/05/2006	DISPATCH TO FDC			
45	07/05/2006	DISPATCH TO FDC			
44	08/24/2005	APPLICATION IS CONSIDERED READY FOR ISSUE			
43	08/17/2005	ISSUE FEE PAYMENT VERIFIED			

42	08/17/2005	ISSUE FEE PAYMENT RECEIVED			
41	06/23/2005	WORKFLOW - FILE SENT TO CONTRACTOR			
40	06/03/2005	EXPORT TO INITIAL DATA CAPTURE			
39	05/27/2005	MAIL NOTICE OF ALLOWANCE	1		30
38	05/27/2005	MAIL EXAMINER'S AMENDMENT			
37	05/03/2005	ISSUE REVISION COMPLETED			
36	05/03/2005	EXAMINER'S AMENDMENT COMMUNICATION			
35	05/03/2005	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
34	05/03/2005	CASE DOCKETED TO EXAMINER IN GAU			
33	05/03/2005	NOTICE OF ALLOWABILITY			
32	03/15/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
31	03/15/2005	DATE FORWARDED TO EXAMINER			
30	01/26/2005	RESPONSE AFTER NON-FINAL ACTION		35	26
29	01/26/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
27	01/26/2005	WORKFLOW INCOMING AMENDMENT IFW			
26	09/22/2004	MAIL NON-FINAL REJECTION			
25	09/20/2004	NON-FINAL REJECTION			
24	07/30/2004	DATE FORWARDED TO EXAMINER			
23	07/22/2004	RESPONSE TO ELECTION / RESTRICTION FILED			
22	07/22/2004	WORKFLOW INCOMING AMENDMENT IFW			
21	07/01/2004	MAIL RESTRICTION REQUIREMENT	66		-1
20	06/28/2004	REQUIREMENT FOR RESTRICTION / ELECTION			
19	03/17/2004	CASE DOCKETED TO EXAMINER IN GAU			
18	03/17/2004	REFERENCE CAPTURE ON IDS			
17	05/27/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
16	02/26/2003	PRELIMINARY AMENDMENT			
15	11/09/2003	CLEARED BY OIPE CSR			
14	09/05/2003	APPLICATION RETURN FROM OIPE			
13	09/05/2003	APPLICATION RETURN TO OIPE			
12	09/05/2003	APPLICATION RETURN FROM OIPE			
11	09/05/2003	NOTICE OF DO/EO ACCEPTANCE MAILED			
10	09/05/2003	APPLICATION RETURN TO OIPE			
9	09/05/2003	APPLICATION DISPATCHED FROM OIPE			
8	09/05/2003	NOTICE OF DO/EO ACCEPTANCE MAILED			

7	06/21/2003	ADDITIONAL APPLICATION FILING FEES			
6	02/26/2003	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
5	02/26/2003	ADDITIONAL APPLICATION FILING FEES			
4	05/27/2003	INFORMATION DISCLOSURE STATEMENTS			
3	06/02/2003	NOTICE OF DO/EO MISSING REQUIREMENTS MAILED			
2	05/30/2003	CORRESPONDENCE ADDRESS CHANGE			
1	02/26/2003	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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FIVE MOORE DR., PO BOX 13398
RESEARCH TRIANGLE PARK NC 27709-3398

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MAR 18 2009

OFFICE OF PETITIONS

In re Patent No. 7,383,837 :
Robertson et al. :
Issued: June 10, 2008 : ON PETITION
Application No. 10/362,699 :
Filed: December 2, 2003 :
Attorney Docket No. PG4129USW :

This is in response to the "REQUEST FOR RECONSIDERATION OF PATNET TERM ADJUSTMENT UNDER §1.705(d)" filed August 1, 2008.

Patentees request that the Patent Term Adjustment for the above-identified patent be corrected from 95 days to 191 days.

On June 10, 2008, the above-identified application matured into U.S. Patent No. 7,383,837. The instant request for reconsideration was timely filed on August 1, 2008. The patent issued with a revised Patent Term Adjustment of 95 days.

The Office cannot accept the present request for reconsideration because patentees failed to comply with the signature requirement set forth in 37 CFR 1.4(d)(2)(i). Accordingly, the petition is dismissed.

37 CFR 1.4(d) provides, in pertinent part:

> (2) S-signature. An S-signature is a signature inserted between forward slash marks, but not a handwritten signature as defined by § 1.4(d)(1). An S-signature includes any signature made by electronic or mechanical means, and any other mode of making or applying a signature not covered by a handwritten signature of § 1.4(d)(1). Correspondence being filed in the Office in paper, by facsimile transmission as provided in

> § 1.6(d), or via the Office electronic filing system as an attachment as provided in § 1.6(a)(4), for a patent application, patent, or a reexamination proceeding may be S-signature signed instead of being personally signed (i.e., with a handwritten signature) as provided for in paragraph (d)(1) of this section. The requirements for an S-signature under this paragraph (d)(2) of this section are as follows.
>
> > (i) The S-signature must consist only of letters, or Arabic numerals, or both, with appropriate spaces and commas, periods, apostrophes, or hyphens for punctuation, and the person signing the correspondence must insert his or her own S-signature with a first single forward slash mark before, and a second single forward slash mark after, the S-signature (e.g., /Dr. James T. Jones, Jr./)[.]

An example of a compliant (and acceptable) S-signature by a petitioner is as follows:

Note: the example includes: (1) an S-signature, (2) between forward slash marks, and (3) a Name.

/Dr. James T. Jones, Jr./
Dr. James T. Jones, Jr.

In this instance, J. Michael Strickland, attorney for patentees, signed the request for reconsideration using an S-Signature. However, the S-Signature of J. Michael Strickland was inserted between double forward slashes // J. Michael Strickland // with his typewritten name and Registration Number below.

Correspondence filed in the USPTO containing an S-Signature within double forward slashes is treated as unsigned pursuant to 37 CFR 1.4(d)(2)(i) due to the extra slashes. As patentees did not properly sign the present request for reconsideration, the Office will not address the petition on the merits. Patentees must file a request for reconsideration of the patent term adjustment signed by an appropriate person in compliance with 37 CFR 1.4(d), accompanied by the required fee under 37 CFR 1.18(e), within ONE MONTH of the mail date of this communication. No extensions of this period are available under 37 CFR 1.136(a). The request should be captioned "Request for Reconsideration of Patent Term Adjustment Under 37 CFR 1.705(d)."

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

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

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

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

Correspondence may also be submitted via the Electronic Filing System of the USPTO.

Telephone inquiries should be directed to Christina Tartera Donnell, Senior Petitions Attorney, at (571) 272-3211.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Patent No. 7,383,837	: DECISION ON REQUEST FOR
Robertson et al.	: RECONSIDERATION OF PATENT
Issued: June 10, 2008	: TERM ADJUSTMENT AND
Application No. 10/362,699	: NOTICE OF INTENT TO ISSUE
Filed: December 2, 2003	: CERTIFICATE OF CORRECTION
Attorney Docket No. PG4129USW	:

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER §1.705(d)" filed March 24, 2009. Patentees request that the Patent Term Adjustment for the above-identified patent be corrected from 95 days to 191 days.

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

Patentees are given **THIRTY (30) DAYS or ONE (1) MONTH, whichever is longer**, from the mail date of this decision to respond. No extensions of time will be granted under 37 CFR 1.136.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **108 days**.

On June 10, 2008, the above-identified application matured into U.S. Patent No. 7,383,837. The patent issued with a revised Patent Term Adjustment of 95 days. On August 1, 2008, patentees filed a timely request for reconsideration within two months of the date the patent issued. See 37 CFR 1.705(d). However, on March 18, 2009, the Office mailed a communication to patentees indicating that the Office could not accept the request for reconsideration because patentees failed to comply with the signature requirement set forth in 37 CFR 1.4(d)(2)(i). The

decision instructed patentees to file a request for reconsideration of the patent term adjustment signed by an appropriate person in compliance with 37 CFR 1.4(d), accompanied by the required fee under 37 CFR 1.18(e), within ONE MONTH of the mail date of the communication. On March 24, 2009, patentees timely filed the present "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER §1.705(d)", containing a compliant S-signature, within one month of the Office communication mailed on March 18, 2009.

Patentees dispute the reduction of 120 days for filing the amendment under § 1.312 on January 22, 2008, after the mailing of the notice of allowance pursuant to 37 CFR 1.704(c)(10). Specifically, patentees assert that the Examiner acted on the amendment and mailed a responsive communication on February 14, 2008. Patentees contend that the period from the January 22, 2008 filing date of the amendment under § 1.312 to the February 14, 2008 mailing date of the notice in response to the amendment under § 1.312, is 24 days, not 120 days.

Patentees' contention is well taken. 37 CFR 1.704(c)(10) provides that:

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

In this instance, the period of reduction under 37 CFR 1.704(c)(10) of 120 days for filing the amendment under § 1.312 on January 22, 2008, is incorrect. The record reveals that the Office took action in response to the filing of amendment under § 1.312 on February 14, 2008. Accordingly, the period of adjustment of the term of the patent should have been reduced by 24 days (not 120 days), the lesser period beginning on the date the amendment under § 1.312 was filed, January 22, 2008, and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312, February 14, 2008. The

period of reduction of 120 days will be removed and a period of reduction of 24 days will be entered.

However, a further review of the application history reveals that patentees should have been assessed a delay pursuant to 37 CFR 1.704(b) for failing to respond within three months to the Notification of Missing Requirements under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US) ("Notification of Missing Requirements") mailed on June 10, 2003.

37 CFR 1.704(b) states:

> With respect to the grounds for adjustment set forth in §§ 1.702(a) through (e), and in particular the ground of adjustment set forth in § 1.702(b), an applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request, measuring such three-month period from the date the notice or action was mailed or given to the applicant, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date that is three months after the date of mailing or transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed. The period, or shortened statutory period, for reply that is set in the Office action or notice has no effect on the three-month period set forth in this paragraph.

The Office concludes that patentee failed to engage in reasonable efforts to conclude processing or examination of this application. The Office mailed a Notification of Missing Requirements on June 10, 2003. Patentees filed their response on December 2, 2003, in excess of the three-month period from the mailing date of the Notification of Missing Requirements. See 37 CFR 1.704(b). Accordingly, the period of adjustment should have been reduced by 83 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 Notification of Missing Requirements, September 11, 2003, and ending on the date the reply was filed, December 2, 2003. Accordingly, a period of reduction of 83 days will be entered.

In view thereof, the patent term adjustment indicated on the patent should be 108 days.

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

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 108 days.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,383,837 B2

DATED : Jun. 10, 2008

INVENTOR(S) : Robertson 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 (95) days

Delete the phrase "by 95 days" and insert – by 108 days--

22 JAN 2004

#7

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In re Application of :
Findlay. :
Application No.: 10/362,714 :
PCT No.: PCT/GB01/03813 :
Int. Filing Date: 24 August 2001 : DECISION
Priority Date: 24 August 2000 :
Attorney's Docket No.: 9052-154 :
For: CALYCINS :

This decision is in response to applicant's communication filed on the 17 November 2003 requesting that the Patent Office vacate the"NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) mailed 16 June 2003. No petition fee is due.

BACKGROUND

On 24 August 2001, applicant filed international application PCT/GB01/03813 that claimed priority of an earlier British application filed 24 August 2000. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 28 February 2002. A Demand for international preliminary examination, in which the United States was elected, was timely filed on 28 February 2002. Accordingly, the thirty-month period for paying the basic national fee for the national stage in the United States expired at midnight on 24 February 2003.

On 24 February 2003, applicant filed a letter for entry into the national stage in the United States which was accompanied by, *inter alia*, a copy of the international application, a preliminary amendment, and the basic national fee of $890 as required by 35 U.S.C. 371(c). These papers were assigned application number 10/362,714.

On 16 June 2003, the United States Patent and Trademark Office in its capacity as an Elected Office mailed out a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)"

(Form PCT/DO/EO/905) indicating that applicant was required to file an oath/declaration and a surcharge fee.

On 17 November 2003, applicant filed the current communication requesting that the Patent Office vacate the "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) mailed 16 June 2003.

DISCUSSION

A review of the application file reveals that applicant provided the correct customer number on the original transmittal letter filed on 24 February 2003. However, an error was made upon entry of that number. As a result the "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) mailed 16 June 2003 was mailed to the wrong address.

CONCLUSION

The "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) indicating that applicant was required to file an oath/declaration and a surcharge fee mailed 16 June 2003 is hereby **VACATED**.

The application is being returned to the United States Designated/Elected Office for processing in accordance with this decision.

Debra S. Brittingham
PCT Special Programs Examiner
PCT Legal Office

Conferee: Leonard Smith
PCT Legal Examiner
PCT Legal Office

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One Indiana Square, Suite 1600
Indianapolis, IN 46204-2033

In re Application of	:	
Sandt et al.	:	
Application No. 10/362,716	:	DECISION ON
PCT No.: PCT/EP01/09540	:	
Int. Filing Date: 17 August 2001	:	PETITION UNDER
Priority Date: 17 August 2000	:	
Atty. Docket No.: 11948/003	:	37 CFR 1.137(b)
For: System For The Control And	:	
Monitoring Of Sanitary Appliances	:	

This is in response to the petition under 37 CFR 1.137(b) filed on 24 February 2003.

BACKGROUND

This international application was filed on 17 August 2001 and claimed an earlier priority date of 17 August 2000.. The International Bureau transmitted a copy of the published international application to the USPTO on 21 February 2002. A Demand electing the United States was filed prior to the elapse of 19 months from the priority date. Accordingly, the 30 month time period for paying the basic national fee in the United States expired at midnight on 17 February 2003. This international application became abandoned with respect to the United States for failure to timely pay the required basic national fee.

DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed; (2) the petition fee as set forth in § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Regarding requirement (1), the petition was accompanied by the basic national fee.

Regarding requirement (2), the petition was accompanied by the petition fee.

Regarding requirement (3), the petition includes a statement that "The entire delay in filing of seven (7) days was unintentional, and due to an error in docketing on the part of the subscribing attorney." This statement is being construed as a statement that "the entire delay

in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Petitioner must notify the Patent and Trademark Office if such an interpretation of the statement in the petition is not correct. Thus, the statement in the petition is being accepted in satisfaction of 37 CFR 1.137(b)(3).

Regarding requirement (4), no terminal disclaimer is required because the international filing date of this application is later than 8 June 1995.

DECISION

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

Petitioner's Deposit Account No. 23-1925 is being charged in the amount of $130.00 for the surcharge under 37 CFR 1.492(e) and $130.00 for the processing fee under 37 CFR 1.492(f), as authorized by the petition.

This application is being forwarded to the National Stage Processing Branch for further processing. The date of this application under 35 U.S.C. 371 (c) (1), (2) and (4) is **24 February 2003**.

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PCT Legal Office

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05 FEB 2004

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In re Application of :
BOSCHETTI, et al. :
PCT No.: PCT/IB01/01546 : DECISION ON PETITION
Application No.: 10/362,721 :
Int. Filing Date: 27 August 2001 : UNDER 37 CFR 1.181
Priority Date: 28 August 2000 :
Atty. Docket No.: METRO560US :
For: POLE TOP SUPPORT FOR AERIAL ELECTRIC :
POWER LINES :

This is a decision on applicant's "PETITION UNDER 37 CFR 1.181" filed on 17 November 2003 in the United States Patent and Trademark Office (USPTO). No petition fee is due.

BACKGROUND

On 27 August 2001, applicant filed international application PCT/IB01/01546 which claimed priority to an earlier application filed 28 August 2000. The thirty-month period for paying the basic national fee in the United States expired at midnight on 28 February 2003.

On 26 February 2003, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1) and a First preliminary amendment.

On 10 June 2003, applicant was mailed a "Notification of Missing Requirements" (Form PCT/DO/EO/905) informing applicant that an executed oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) was required. Applicant was also informed of the need to pay the required surcharge for providing and oath or declaration of the inventors later than thirty months from the priority date. Applicant was afforded two months to file the required response.

On 17 November 2003, applicant filed the present petition to convert pursuant to 37 CFR 1.181 accompanied by true and complete copies of a cover letter dated 21 May 2003, an executed declaration of the inventors and a stamped USPTO acknowledgment postcard.

DISCUSSION

The best evidence of what was actually received by the Office is a postcard receipt containing a specific itemization of all the items being submitted. See MPEP 503. Here, applicant has provided a copy of the date-stamped postcard receipt. The postcard identifies the application by title, inventors and docket number. The receipt identifies the application number as "10/362,721." Among the items listed on the receipt is "2. Executed inventors' declaration." The receipt is stamped "DT16 Rec'd PCT/PTO 23 MAY 2003" across its face. Thus, it is clear that applicant filed an executed declaration on 23 May 2003. In addition, the postcard and transmittal letter authorize the deduction of appropriate funds from Deposit Account No.: 06-0735. Therefore the $65.00 small entity payment will be deducted from the deposit account as authorized. For the reasons stated above, it is proper to grant applicant's petition at this time and accept the copy of the declaration filed 17 November 2003 as a substitute for the declaration originally filed 23 May 2003. Further, a review of the application file reveals that all of the requirements of 35 U.S.C. 371 for entry into the national stage in the United States have now been satisfied.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.181 is **GRANTED**.

The "Notification of Missing Requirements" (Form PCT/DO/EO/905)" mailed on 10 June 2003 is hereby **VACATED**.

The application has an international filing date of 27 August 2001 under 35 U.S.C. 363 and will be given a date of **23 May 2003** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for treatment in accordance with this decision.

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Howard F. Mandelbaum
Levine & Mandelbaum
444 Madison Avenue, 35th Floor
New York, N.Y. 10022

In re Application of: Boschetti et al.
Application No. 10/362,721
Filed: May 23, 2003
For: Pole Top Support for Aerial Electrical Power Lines

PETITION TO INVOKE SUPERVISORY REVIEW UNDER 37 C.F.R. 1.181

This is in response to applicant's Petition Under 37 CFR 1.181 to Invoke the Supervisory Authority of the Director filed on December 26, 2006.

The petition is **DENIED**.

A review of the file shows that the examiner mailed a Final Rejection on February 17, 2006. In response thereto, applicant filed a Notice of Appeal on May 17, 2006 and an Appeal Brief on July 13, 2006. A notice of Non-Compliant Appeal Brief was mailed on August 9, 2006. In response thereto, another Appeal Brief was filed on September 7, 2006. The examiner mailed a Notice of Non-Compliant Brief on December 1, 2006 indicating submission of several patents as evidence could not be properly submitted at the time of appeal.

Applicant referenced several US Patents in his Brief to support his position that the examiner's rejection under 35 USC 112 was improper due to the fact that the language in question was acceptable in the referenced US Patents. These patents had not previously been cited by the examiner or applicant during prosecution of this application. Therefore the examiner considered these patents to be new evidence which cannot be submitted at appeal, see 37 CFR 41.37 (c)(1)(ix). Applicant argues that "The cited patents state no facts which bear upon any of the issues on appeal...". This would appear contradictory to applicant's use of the patents since they were cited as precedent and thus support the fact that the language in question in the 35 USC 112 rejection was acceptable by the Office. These patents would bear directly on whether the rejection under 35 USC 112 were proper, at least in applicant's eyes. Therefore the

patents in question were clearly submitted as evidence and the submission was presented for the first time at appeal and thus submitted improperly.

For the above reason, it is believed that the references submitted for the first time at appeal would constitute new evidence. Therefore the Brief filed September 7, 2006 will not be entered.

Summary: ***Petition is DENIED.***

It is noted that applicant has subsequently filed an Appeal Brief on December 26, 2006 which does not contain the improper cited US Patents that were cited in the September 7, 2006 brief. The application has been forwarded to the examiner of record for consideration of this brief.

John Weiss, Director
Patent Technology Center 3600
(571) 272-6812

CF 3/12/07

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William S Frommer
Frommer Lawrence & Haug
745 Fifth Avenue
New York, NY 10151

Mail Date: 04/23/2010

Applicant	: Tetsujiro Kondo	: DECISION ON REQUEST FOR
Patent Number	: 7619655	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/362,725	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/27/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1756** 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 :
SADARANGANI, Chandur :
Application No. 10/362,737 : DECISION ON PETITION
Filed: August 1, 2003 : TO WITHDRAW
Attorney Docket No. **IVCC-0151** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 11, 2007.

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

A review of the file record indicates that the power of attorney to *VENABLE LLP* has been revoked by the assignee of the patent application on June 12, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **WOODCOCK WASHBURN LLP**
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA, PA 19104-289

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Nixon & Vanderhye
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In re Application of	:	DECISION ON
BELL et al	:	
PCT No.: PCT/GB01/03846	:	
Application No: 10/362,751	:	PETITION UNDER
Int. Filing Date: 28 August 2001	:	
Priority Date: 31 August 2000	:	
Attorney's Docket No.: 45-294	:	37 CFR 1.47(a)
For: REFRACTORY ARTICLES	:	

This is in response to the "PETITION UNDER RULE 47" filed on 26 February 2003. The petition fee of 130.00 has been charged to Deposit Account No: 50-0310 as stipulated in the transmittal letter of 26 February 2003.

BACKGROUND

On 28 August 2001, applicants filed international application PCT/GB01/03845, which claimed priority to an earlier application filed 31 August 2000. A copy of the international application was communicated by the International Bureau to the United States Patent and Trademark Office on 07 March 2002. A DEMAND was filed on 28 March 2002 prior to the expiration of 19 months from the priority date electing the United States. The thirty-month (30) time period for paying the basic national fee in the United States of America expired at midnight on 28 February 2003.

On 26 February 2003, petitioner filed in the United States Patent & Trademark Office a transmittal letter for entry into the national stage in the U.S. under 35 U.SC. 371, which was accompanied by, inter alia, the U.S. basic national fee, the present petition under rule 47, a declaration in support of filing on behalf of omitted inventor Kassim JUMA accompanied, inter alia, an executed Declaration without the signatures of Kassim JUMA.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor.

Petitioner has satisfied requirements (1) – (4) of 37 CFR 1.47(a).

Regarding requirement (1), petitioner has provided the fee under 37 CFR 1.17(h).

Regarding requirement (2), the averments of Ms. Carolina J. O'FLYNN are sufficient to support a finding that the nonsigning inventor, Kassim JUMA refuses to sign because a complete copy of the international application PCT/GB01/03846 was mailed to him and on October 15, 2002 and November 26, 2002, respectively, letters were mailed to him for his execution and to this date he has not responded. A copy of the mail return receipt confirming that Mr. Juma received the first letter on October 16, 2002 (exhibit 5) and received the second on November 26, 2002 (exhibit 7) has been provided.

Moreover, Ms.O'Flynn on April 24, 2002 telephoned Mr. Juma and he indicated that " his solicitor had advised him not to sign the form." (exhibit 3).

Regarding requirement 4, petitioner has provided an executed declaration signed by Mr. David A. Bell, David L. Jones, Helmut Jaunich, Andreas Ansorge, and Martin Schmidt on their behalf and on the behalf of the nonsigning joint inventor Kassim JUMA.

Regarding requirement 3, although petitioner has not explicitly provided a statement of the last known address of the missing inventor, in light of the same address provided on the copy of the declaration sheet no. 7 of Form PCT/RO/101 and the receipt of November 26, 2002 letter on 26 November 27, 2002 confirmed by TNT the address indicated therein as 11 Exeter Street, ST17 4EG, ENGLAND is being construed as Mr. Juma's last known address. Petitioner must notify the Patent and Trademark Office if such interpretation of the last known address of the missing inventor is not correct.

CONCLUSION

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

The Application Division and the International Division are authorized to accept the application as a 37 CFR 1.47(a) application and to mail a filing receipt. The application will be given a 35 U.S.C. 371(c) date of **26 February 2003.**

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

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

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing under 35 U.S.C. 371.

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PCT Legal Examiner
PCT Legal Office
Telephone: (703) 308-6312
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Richard Cole
PCT Legal Examiner
PCT Legal Office

03 FEB 2004

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Kassim JUMA
11 Exeter Street,
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In re Application of
BELL et al
PCT No.: PCT/GB01/03846
Application No: 10/362,751
Int. Filing Date: 28 August 2001
Priority Date: 31 August 2000
Attorney's Docket No.: 45-294
For: REFRACTORY ARTICLES

Dear Mr. JUMA:

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

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.497(a) and (b).

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Telephone: (703) 308-6312
Facsimile: (703) 308-6459

Nixon & Vanderhye
1100 North Glebe Road, 8th Floor
Arlington, VA 22201-4714

03 FEB 2004

45-294
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OIPE IAP99 SEP 26 2006 PATENT & TRADEMARK OFFICE

Nixon & Vanderhye
1100 North Glebe Road, 8th Floor
Arlington, VA 22201-4714

In re Application of	:	DECISION ON
BELL et al	:	
PCT No.: PCT/GB01/03846	:	
Application No: 10/362,751	:	PETITION UNDER
Int. Filing Date: 28 August 2001	:	
Priority Date: 31 August 2000	:	
Attorney's Docket No.: 45-294	:	37 CFR 1.47(a)
For: REFRACTORY ARTICLES	:	

This is in response to the "PETITION UNDER RULE 47" filed on 26 February 2003. The petition fee of 130.00 has been charged to Deposit Account No: 50-0310 as stipulated in the transmittal letter of 26 February 2003.

BACKGROUND

On 28 August 2001, applicants filed international application PCT/GB01/03845, which claimed priority to an earlier application filed 31 August 2000. A copy of the international application was communicated by the International Bureau to the United States Patent and Trademark Office on 07 March 2002. A DEMAND was filed on 28 March 2002 prior to the expiration of 19 months from the priority date electing the United States. The thirty-month (30) time period for paying the basic national fee in the United States of America expired at midnight on 28 February 2003.

On 26 February 2003, petitioner filed in the United States Patent & Trademark Office a transmittal letter for entry into the national stage in the U.S. under 35 U.SC. 371, which was accompanied by, inter alia, the U.S. basic national fee, the present petition under rule 47, a declaration in support of filing on behalf of omitted inventor Kassim JUMA accompanied, inter alia, an executed Declaration without the signatures of Kassim JUMA.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor.

Petitioner has satisfied requirements (1) – (4) of 37 CFR 1.47(a).

Regarding requirement (1), petitioner has provided the fee under 37 CFR 1.17(h).

Regarding requirement (2), the averments of Ms. Carolina J. O'FLYNN are sufficient to support a finding that the nonsigning inventor, Kassim JUMA refuses to sign because a complete copy of the international application PCT/GB01/03846 was mailed to him and on October 15, 2002 and November 26, 2002, respectively, letters were mailed to him for his execution and to this date he has not responded. A copy of the mail return receipt confirming that Mr. Juma received the first letter on October 16, 2002 (exhibit 5) and received the second on November 26, 2002 (exhibit 7) has been provided.

Moreover, Ms.O'Flynn on April 24, 2002 telephoned Mr. Juma and he indicated that " his solicitor had advised him not to sign the form." (exhibit 3).

Regarding requirement 4, petitioner has provided an executed declaration signed by Mr. David A. Bell, David L. Jones, Helmut Jaunich, Andreas Ansorge, and Martin Schmidt on their behalf and on the behalf of the nonsigning joint inventor Kassim JUMA.

Regarding requirement 3, although petitioner has not explicitly provided a statement of the last known address of the missing inventor, in light of the same address provided on the copy of the declaration sheet no. 7 of Form PCT/RO/101 and the receipt of November 26, 2002 letter on 26 November 27, 2002 confirmed by TNT the address indicated therein as 11 Exeter Street, ST17 4EG, ENGLAND is being construed as Mr. Juma's last known address. Petitioner must notify the Patent and Trademark Office if such interpretation of the last known address of the missing inventor is not correct.

CONCLUSION

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

The Application Division and the International Division are authorized to accept the application as a 37 CFR 1.47(a) application and to mail a filing receipt. The application will be given a 35 U.S.C. 371(c) date of **26 February 2003.**

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

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

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing under 35 U.S.C. 371.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Telephone: (703) 308-6312
Facsimile: (703) 308-6459

Richard Cole
PCT Legal Examiner
PCT Legal Office

OIPE
SEP 26 2006
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

BELL et al Atty. Ref.: **45-294**

Serial No. **Unknown** Group: **Unknown**

Filed: **February 26, 2003** Examiner: **Unknown**

For: **REFRACTORY ARTICLES**

* * * * * * * * * * * *

February 26, 2003

Honorable Commissioner of Patents
and Trademarks
Washington, DC 20231

PETITION UNDER RULE 47

Sir:

Petition is hereby made pursuant to 37 CFR §1.47 to accept the above-identified application in the absence of a nonsigning inventor, Kassim Juma (hereinafter "inventor Juma"). The reason for this petition is that inventor Juma has expressly and/or constructively refused to join in the subject application.

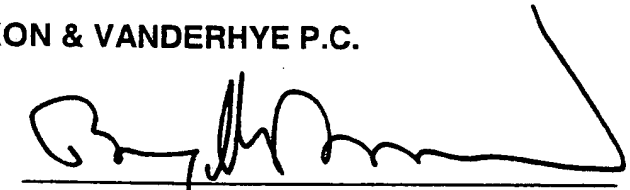
In support of this Petition, there is attached a Factual Declaration of Caroline J. O'Flynn. As is clearly evident from the O'Flynn Declaration, inventor Juma expressly told Ms. O'Flynn that his solicitor advised him not sign formal documents associated with the PCT application, notwithstanding inventor Juma's obligations under a Consent Order. Moreover, inventor Juma has not replied at all to Ms. O'Flynn's letters of October 15, 2002 and/or November 26, 2002. In this regard, it should be noted that inventor Juma was presented with a complete copy of the underlying PCT application

from which the subject U.S. national phase application is based, with Ms. O'Flynn's letter of November 26, 2002.

In view of the factual evidence provided by the O'Flynn Declaration, it is believed that this application is in condition for being accorded Rule 47 status. Such favorable action is therefore requested.

Respectfully submitted,

NIXON & VANDERHYE P.C.

By: 

Bryan H. Davidson
Reg. No. 30,251

BHD:lmy
1100 North Glebe Road, 8th Floor
Arlington, VA 22201-4714
Telephone: (703) 816-4000
Facsimile: (703) 816-4100

OIPE IAP48
SEP 26 2006
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

BELL et al

Atty. Ref.: **45-294**

Serial No. **Unknown**

Group: **Unknown**

Filed: **February 26, 2003**

Examiner: **Unknown**

For: **REFRACTORY ARTICLES**

Honorable Commissioner of Patents
and Trademarks
Washington, DC 20231

DECLARATION OF CAROLINE J. O'FLYNN

Sir:

The undersigned, **Caroline J. O'FLYNN**, hereby declares and states that:

1. I have been employed, for all times relevant to the facts stated herein, by the real party in interest, Foseco International Limited (hereinafter "Foseco"), in the above-subject national phase US patent application.

2. One of the co-inventors of the subject matter disclosed and claimed in the above-identified application, Kassim Juma, was required by a Consent Order dated 18 June 2001 of the United Kingdom's High Court of Justice, Cancery Division, Patents Court (copy appended as Exhibit 1), to assign all of his right, title and interest in UK patent application number 0025411.0. Pursuant to such Consent Order, Kassim Juma,

executed an Assignment in favor of Foseco (copy appended hereto as Exhibit 2).

3. Appended hereto as Exhibit 3 is a chronological summary of the factual situation concerning Kassim Juma starting with the Consent order of June 2001. All statements of facts therein as well as statements made by Kassim Juma to me are hereby expressly incorporated hereinto by reference.

4. By letter dated October 15, 2002 (copy appended as Exhibit 4), I sent a letter to Kassim Juma requesting signature of various formality documents, including the assignment and Declaration associated with the above-identified national phase U.S. patent application. Receipt of the October 15, 2002 letter on October 16, 2002 was confirmed by TNT, a copy of which is appended as Exhibit 5.

5. By letter dated November 26, 2002 (copy appended hereto as Exhibit 6), I again wrote to Kassim Juma requesting signature of formality paperwork, including the assignment and Declaration associated with the above-identified national phase US patent application. A complete copy of the specification of the International Application PCT/GB01/03846 on which the subject national phase US patent application is based was also enclosed with my letter of November 26, 2002. Receipt of the November 26, 2002 letter on November 27, 2002 was confirmed by TNT, a copy of which is appended as Exhibit 7.

6. To date I have received no verbal or written replies to my letters of October 15, 2002 or November 26, 2002.

7. I declare further that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge

that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Respectfully Submitted,

26 February 2003
Date Signed

Caroline J. O'FLYNN

This Assignment is made the 18th day of JUNE 2001 between DR. KASSIM JUMA of 11 Exeter Street, Stafford, ST17 4EG, England (hereinafter referred to as "Assignor") and FOSECO INTERNATIONAL LIMITED of Burmah Castrol House, Pipers Way, Swindon, Wiltshire, SN3 1RE, England (hereinafter referred to as "Assignee")

Whereas

IT IS HEREBY AGREED AS FOLLOWS

1. In consideration of one pound sterling (£1.00) the Assignor hereby assigns to the Assignee UK Patent Application No. 0025411.0 filed 17 October 2000 (hereinafter referred to as The Patent) together with all rights of action, powers and benefits arising therefrom including in the case of patent applications the right to file divisional patent applications and the right to have patents granted in the name of the Assignee and in the case of granted patents the right to sue for damages and other remedies in respect of any infringement thereof which may have occurred prior to the date thereof, to hold unto the Assignee absolutely.

2. The Assignor hereby undertakes to do at any time hereafter at the request and expense of the Assignee any act or thing which may be necessary for giving effect to this Assignment or for absolutely vesting in the Assignee the full right, title and interest in The Patent, including executing such further assignments, documents, papers, forms and authorisations as may be necessary.

3. The law applicable to this Assignment shall be English law.

4. It is hereby certified that the transaction hereby effected does not form part of a larger transaction or a series of transactions in respect of which the amount or value or the aggregate amount or value of the consideration exceeds sixty thousand pounds sterling (£60,000).

In witness whereof the parties have executed this Assignment on the day and year written above.

Dr. Kassim Juma

I CERTIFY THIS TO BE A TRUE COPY

PAUL J. BUCKINGHAM, NOTARY PUBLIC
TAMWORTH, STAFFORDSHIRE, ENGLAND

For FOSECO INTERNATIONAL LIMITED

EXHIBIT

Wragge & Co

IN THE HIGH COURT OF JUSTICE **CLAIM NO. HC0101219**

CHANCERY DIVISION

PATENTS COURT

MR JUSTICE LADDIE
MONDAY THE 18TH DAY OF JUNE 2001

BETWEEN:

(1) FOSECO INTERNATIONAL LIMITED
(2) FOSECO (FS) LIMITED

Claimants

and

KASSIM JUMA

Defendant

CONSENT ORDER

UPON THE APPLICATION of the parties

AND UPON the Claimants and the Defendant by their respective Solicitors having agreed in writing to this Order

BY CONSENT it is ordered that:

1 The Defendant do assign to the First Claimant all of his right, title and interest in UK patent application number 0025411.0 and all other patent applications and granted patents claiming priority from the said applications and do execute or procure the execution of all assignments, declarations, powers of attorney and other documents necessary to enable the said patent application (and any other applications derived therefrom or from priority applications in respect thereof or continuations thereof) to proceed.

2 The Defendant do disclose, on oath, all inventions, discoveries, formulae, designs, processes, adaptations or improvements made by him whilst employed by the First and Second Claimants, irrespective of whether they were made at the premises of the First and the Second Claimants or outside.

3 The claim in the above action be discontinued.

4 There be no order as to costs.

EXHIBIT 2

I CERTIFY THIS TO BE A TRUE COPY

PAUL J. BUCKINGHAM. NOTARY PUBLIC
TAMWORTH, STAFFORDSHIRE, ENGLAND

\WRAGGE2\#2654968\EZD

We consent to the terms of this Order.

Wragge & Co

.....

Wragge & Co
55 Colmore Row
Birmingham
B3 2AS
Solicitors for the Claimants
Ref: 1778051/NHC/SIP
Dated: 22/5/01

We consent to the terms of this Order.

.....

Hand Morgan & Owen
17 Martin Street
Stafford
ST16 2LF
Solicitors for the Defendant
Ref: NRP.JEA
Dated: 11.06.01

Order this day of 2001 by

I CERTIFY THIS TO BE A TRUE COPY

.....

PAUL J. BUCKINGHAM, NOTARY PUBLIC
TAMWORTH, STAFFORDSHIRE, ENGLAND

CLAIM NO. HC0101219

IN THE HIGH COURT OF JUSTICE

CHANCERY DIVISION

PATENTS COURT
MR JUSTICE LADDIE
18TH JUNE 2001
BETWEEN:

(1) FOSECO INTERNATIONAL LIMITED
(2) FOSECO (FS) LIMITED

Claimants

and

KASSIM JUMA

Defendant

CONSENT ORDER

Wragge & Co
55 Colmore Row
Birmingham
B3 2AS
Solicitors for the Claimants
Ref: 1778051/NHC/SIP

(+ copy to Hand Morgan & Owen)

18.06.01 Consent Order. Mr Juma undertook to "do execute or procure the execution of all assignments, declarations, powers of attorney and other documents necessary to enable the said patent application (and any other applications derived therefrom or from priority applications in respect thereof or continuations thereof) to proceed".

28.02.02 Caroline O'Flynn ("CJOF") wrote to Mr Juma requesting that he sign an Authorisation Form to enable Marks & Clerk (Foseco's Patent Attorneys) to progress the PCT application.

25.03.02 CJOF telephoned Mr Juma but Mr Juma was "overseas".

26.03.02 CJOF wrote to Mr Juma again enquiring whether the Form had been signed and returned. Enclosing another copy of the Form, "just in case".

09.04.02 CJOF telephone Mr Juma seeking confirmation that the Form had been signed and returned. Mr Juma advised that he needed a full explanation as to why the form was required.

09.04.02 CJOF wrote to Mr Juma to explain the full background and reason for the form.

12.04.02 CJOF telephoned Mr Juma but Mr Juma was "overseas".

24.04.02 CJOF telephoned Mr Juma. Mr Juma advised that his solicitor had advised him not to sign the form because :

- there is no obligation on Mr Juma to assist Foseco, this is Foseco's problem
- any obligation on Mr Juma expired after 12 months
- As Mr Juma and Foseco are competitors he should not assist Foseco in any way.

CJOF explained to Mr Juma that under the terms of the Consent Order he had agreed to "do execute or procure the execution of all assignments, declarations, powers of attorney and other documents necessary to enable the said patent application (and any other applications derived therefrom or from priority applications in respect thereof or continuations thereof) to proceed" and by refusing to sign the documents he was in breach of the Order. CJOF advised Mr Juma that there was no time restriction on the obligations under the Order. He informed that his solicitor had advised otherwise. CJOF asked Mr Juma if he could put in writing the fact that he would not sign the document and that this was on the advice of his solicitor. Mr Juma advised that he is far too busy to contact his solicitor again. CJOF asked if he could therefore ask his solicitor to write to Foseco setting down the above, again Mr Juma refused. CJOF advised Mr Juma that Foseco were not trying to be difficult but if he would not fulfil his obligations under the Consent Order then we would little option but to contact Wragge & Co.

25.04.02 Garry Smith ("GS") telephoned Mr Juma and repeated the request that Mr Juma sign the PCT authorisation Form, restating the legal obligation that Mr Juma had under the Consent Order. Mr Juma said that he agreed that the patent was Foseco's but that he had been advised by his solicitor that he should not sign, and did not have to sign any future documents. GS read out the terms of the Consent Order that clearly stated Mr Juma's obligation. GS explained the rationale behind the request and that a series of future document signatures would be required when the patent application enters the relevant National Phases. GS suggest that all the future documentation could possibly be prepared for signature in a single day, and that Foseco would be prepared to pay a small fee (of the order of £500) for Mr Juma's time in attending Foseco and signing the documentation. GS stressed that Mr Juma was legally obliged to sign the documents, however Foseco would reimburse him for his time/ inconvenience. Mr Juma laughed at this proposal, indicating that Foseco would need to pay a significant sum, but would not give any indication of a suitable price. GS again repeated the terms of the Consent Order and that if Mr Juma would not sign, Foseco may need to consider legal action which would clearly be expensive for both parties. Mr Juma stated that he now had suitable funding, unlike when the issue regarding ownership of the invention arose, and that he would happily pay to have the current issue drag out over the next five years. Mr Juma then said that he could make the situation more difficult for Foseco by objecting to the other named inventors. GS explained that it was a cognated patent and the inventors had made contribution to aspects of the current PCT application that were in addition to Mr Juma's original ideas. When questioned why he was objecting to sign the documents, Mr Juma claimed that his company was now a competitor to Foseco, and that he should not do anything to assist his competitor i.e., Foseco. GS stated that the patent in question solely covered carbon bonded filtering and asked Mr Juma if he was working in this area. Mr Juma said no. GS said that there was therefore no competition in the areas of filters, hence no need to oppose signature. Mr Juma replied that they were competitors in the field of refractories and therefore he would not do anything to benefit Foseco. Despite covering a number of the above points again, Mr Juma stubbornly refused to comply with Foseco's request to sign the (current or future) documents necessary to progress the various patent applications. He agreed that the patent was owned by Foseco but he would not sign any documentation that would benefit one of his competitors. The call ended prematurely – disconnected – and no further contact was made.

15.10.02 CJOF sent letter to KJ requesting signature of various formality documents. Copy attached.

16.10.02 Letter dated 15.10.02 delivered to KJ via TNT receipt attached.

26.11.02	CJOF again wrote to KJ requesting signature of formality paperwork. Copy attached.
27.11.02	Letter dated 26.11.02 delivered by TNT – receipt attached.

Ref : IP.Patents.Foundry.FS1669.11724

15 October 2002

BY TNT

Mr K Juma
11 Exeter Street
Stafford
ST17 4EG

Dear Kassim,

Re: FS1669, Refractory Articles

In order that we may proceed with the title patent application, I would be grateful if you could kindly sign the following documents as an inventor of the invention.

1. **Chile**
   An assignment document. This should be signed where indicated before a public notary. I will then arrange for legalisation at the Chilean Consulate.

2. **Mexico**
   An assignment document. To be signed directly above your name where indicated.

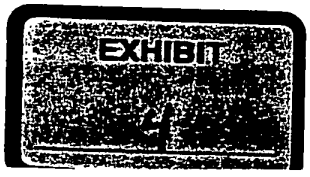
3. **Canada**
   An assignment document to be signed on the second page where indicated.

4. **USA**
   a) An assignment of patent application; and
   b) A declaration and power of attorney, both to be signed where indicated.

5. **Slovak Republic**
   Declaration to be signed against number 3 signatures of inventors.

6. **South Africa**
   An assignment of invention to be signed where indicated.

7. **Brazil**
   A declaration to be signed where indicated.



I am enclosing a pre-paid recorded delivery envelope for the return of the duly signed documents. I would be grateful if you could kindly sign and return the documents to me by 29 October 2002, in order for us to progress these applications.

Many thanks and regards.

Yours sincerely

Caroline O'Flynn

encs

TNT

[redacted]

[redacted]	30-10-02
	Caroline Oflynn
	01827 284759
	1

Thank you for your recent enquiry,

As requested please find attached a copy/copies of the delivery note/s for consignment note number/s:

Additional comments:

If you require any further information please do not hesitate to call Customer Services on: 0800 777222 / 0800 777999.

Yours sincerely,

Customer Services

TNT EXPRESS
K JUMA
11 EXETER STREET

STAFFORD

ST17 4EG
From: FOSECO INT LTD

Tel:
Receiver:
Del. Instr.

Cust Ref: 5101 30662

B4 NOON

1 ITEM(S)
1 KGS

42791603 0
051
RECEIVED IN GOOD CONDITION

SIGNATURE [signature]
NAME
DATE 16 10
TIME 111502 STATUS

EXHIBIT

Ref : IP.Patents.Foundry.FS1669.11926

26 November 2002

VIA TNT

Mr K Juma
11 Exeter Street
Stafford
ST17 4EG

Dear Kassim,

Re: International Patent Application Number: PCT/GB01/03846
"Refractory Articles"

In order that we may proceed with the title patent application through the PCT system, I would be grateful if you could kindly sign the following documents as an inventor of the invention.

1. **South Africa**
   An Assignment of Invention to be signed where indicated.

2. **USA**
   An Assignment of Patent Application to be signed where indicated on page 2, and an Inventors Declaration to be signed under point 3, directly above your printed name.

3. **Slovak Republic**
   A Declaration to be signed where indicated.

4. **Indonesia**
   An Assignment to be signed where indicated, alongside your name at point 3.

For your information, a copy of the specification as filed is also enclosed.

I am enclosing a pre-paid recorded delivery envelope for the return of the duly signed documents and would be grateful if you could kindly sign and return the documents to me by Monday 16 December 2002.

If you have any queries, please do not hesitate to contact me.

Many thanks and regards.

Yours sincerely

Caroline O'Flynn

encs

F.A.O Miss Liz Taylor
From: Martin Davis @ Birmingham
Sameday. Any Problems contact
me on 0121 643-5552.
RE: Hard copy as requested.

EXHIBIT 7

TNT EXPRESS HOUSE, HOLLY LANE, ATHERSTONE, WARWICKSHIRE CV9 3RT TELEPHONE: 01827 393434

Sameday DIV. 310

1 DELIVER TO (Block Capitals)
NAME MR CASSIM JUNA
STREET
TOWN 11 EXETER ST
COUNTY
POST CODE STAFFORD
RECEIVER
TEL No.

2 SENDERS NAME
STREET FOSECO
TOWN COLESHILL RD
COUNTY TAMWORTH
POST CODE
CONTACT
TEL No. MAUREEN

3 SENDERS SIGNATURE

4 DATE OF

5 **SERVICE OPTIONS**
PLEASE TICK ONE BOX

DEDICATED VEHICLE	DV	
NATIONAL EXPRESS	NE	
FLIGHT/DOMESTIC	FD	
FLIGHT/INTERNAT'L	FI	

6 SPECIAL INSTRUCTIONS

7 CONSIGNMENT RECEIVED IN GOOD CONDITION
DATE 27/11/02
TIME [signature]
RECEIVERS SIGNATURE M TUMA
PRINT NAME 11.40

8 CONSIGNMENT NOTE NUMBER 5101929B

9 SITE REFERENCE No.

10 CUSTOMER REFERENCE No.

12 No. OF PACKAGES

11 GROSS WEIGHT KILOS

13 DESCRIPTION OF PACKAGES (in Carton etc)

14 Thank you for using TNT Sameday

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ALEXANDRIA, VA 22313-1404

Mail Date: 04/20/2010

Applicant	: Michel Armand	: DECISION ON REQUEST FOR
Patent Number	: 7601318	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/362,763	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/19/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1143** 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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BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA, VA 22313-1404

Mail Date: 05/17/2010

Applicant : Michel Armand
Patent Number : 7601318
Issue Date : 10/13/2009
Application No: 10/362,763
Filed : 06/19/2003

: 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 **1227** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

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

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

UNITED STATES PATENT AND TRADEMARK OFFICE

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

OSHA LIANG LLP
1221 McKinney Street, Suite 2800
Houston, TX 77010

COPY MAILED
AUG 22 2006
OFFICE OF PETITIONS

In re Application of
Nobuyoshi OKAZAKI
Application No. 10/362,787
Filed: March 3, 2004
Attorney Docket No. 07472/004001

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 28, 2006.

The request is **APPROVED**.

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

The request was signed by Thomas Scherer on behalf of all attorneys of record who are associated with customer No. 22511.

All attorneys/agents associated with the Customer Number 22511 have been withdrawn.

Example: 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 Monica A. Graves at 571-272-7253.

David Bucci
Petitions Examiner
Office of Petitions

cc: Nobuyoshi OKAZAKI
1013-10, Komatsuri-cho, Kishiwasa-shi
Osaka, Japan 596-0821

cc: Koji Ishida
c/o OHZORA LAW & PATENT OFFICE
Umeda Plaza Blgd., Annex 7F,
4-3-25 Nishitenma
Kita-Ku, Osaka, Japan 530-007

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
10/362,787	03/03/2004	Nobuyoshi Okazaki	07472-/004001

CONFIRMATION NO. 3723

OC000000019953684

22511
OSHA LIANG L.L.P.
1221 MCKINNEY STREET
SUITE 2800
HOUSTON, TX 77010

Date Mailed: 08/09/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/28/2006.

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

MONICA A GRAVES
OP (571) 272-7253

FORMER ATTORNEY/AGENT COPY

19 AUG 03

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
PO Box 1450
Alexandria, VA 22313-1450
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Charles N. Quinn, Esq.
Fox Rothschild LLP
2000 Market Street, 10th Floor
Philadelphia, PA 19103

In re Application of	:	
Cistone et al.	:	
US Application No.: 10/362,788	:	
PCT Application No.: PCT/US01/06785	:	**DECISION ON PETITION**
International Filing Date: 2 March 2001	:	**UNDER 37 CFR 1.181**
Priority Date: 1 September 2000	:	
Attorney's Docket No.: 65608.01501	:	
For: MELT PROCESSABLE	:	
PERFLUOROPOLYMER FORMS	:	

This decision is in response to the "Petition for Revival of an Application for Patent Abandoned Unintentionally under 37 CFR 1.137(b)" filed by facsimile on 11 July 2003, which is being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment in this application as to the United States. The petition is **GRANTED** as explained below.

BACKGROUND

On 2 March 2001, Applicants filed international application PCT/US01/06785 which claimed priority of an earlier application filed on 1 September 2000. The thirty-month period for paying the basic national fee ended at midnight on 3 March 2003 (Monday).

A Notification of Abandonment (Form PCT/DO/EO/909) was mailed on 7 July 2003, indicating that the international application had become abandoned for failure to pay the basic national fee within thirty months of the 1 September 2000 priority date. The instant petition then followed.

DISCUSSION

Upon review of the file, the Office notes that on 25 February 2003, Applicants filed the papers for entering the national stage under 35 U.S.C. 371, labeled as "Transmittal Letter to the United States Elected Office (EO/US) (Entry into U.S. National Phase under Chapter II)." Accompanying that submission was a general authorization for the USPTO to charge, *inter alia*, filing fees under 37 CFR 1.492(a)(1)-(4) "during the entire pendency of this application." The account authorized to be charged for the fees was identified in the front page of the concurrently filed Preliminary Amendment as Deposit Account No. 50-1943. Therefore, the basic national fee

was timely submitted, rendering the international application not abandoned as to the United States.

CONCLUSION

In view of the above, the petition is **GRANTED**, in that, the holding of abandonment in the application as to the United States is hereby withdrawn, and the 7 July 2003 Notification of Abandonment vacated.

No petition fee is owed.

Applicants' claim for priority is acknowledged. The application has an international filing date of 2 March 2001 under 35 U.S.C. 363.

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

Leonard Smith
PCT Legal Examiner
PCT Legal Office

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

12 AUG 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
www.uspto.gov

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

In re Application of	
LANG, Christine, et al.	
U.S. Application No.: 10/362,794	
PCT No.: PCT/IB01/07509	DECISION ON PETITION TO
International Filing Date: 30 June 2001	REVIVE ABANDONED
Priority Date: 23 August 2000	APPLICATION UNDER 37
Attorney's Docket No.: 00140/006001	CFR 1.137(b)
For: SCREENING METHOD FOR DISCOVERING AUXILIARY AGENTS PROMOTING ENDOCYTOSIS	

This decision is issued in response to applicants' petition for revival filed on 25 June 2003.

BACKGROUND

On 30 June 2001, applicants filed international application PCT/IB01/07509 which claimed a priority date of 23 August 2000 and which designated the United States. On 28 February 2002, a copy of the international application was communicated to the United States Patent And Trademark Office ("USPTO") by the International Bureau ("IB").]

The deadline for payment of the basic national fee was thirty months from the priority date, i.e., 24 February 2003 (23 February 2003 was a Sunday).

On 24 February 2003, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, among other materials, a purported translation of the international application into English. The transmittal letter was not accompanied by payment of the basic national fee.

On 02 June 2003, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Abandonment indicating that the application was abandoned for failure to pay the basic national fee within thirty months of the priority date.

On 25 June 2003, applicants filed the petition for revival considered herein, accompanied by payment of the small entity petition fee and payment of the small entity basic national fee applicable to applications submitted with an International Search Report (ISR) prepared by the EPO or the JPO.

DISCUSSION

37 CFR 1.137(b) permits the filing of a petition to revive an abandoned application where the abandonment resulted from an unintentional delay. A grantable petition under this section must include: (1) the required reply, unless previously filed; (2) the petition fee required by law; (3) a statement that the "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional;" and (4) any terminal disclaimer and fee required pursuant to 37 CFR 1.137(c).

Regarding item (1), the "required reply," section 711.03(c) of the Manual of Patent Examining Procedures states that:

> [g]enerally, the required reply is the reply sufficient to have avoided abandonment, had such reply been timely filed.

Here, the "required reply" was payment of the applicable basic national fee. The petition here was accompanied by a payment of $450, the small entity basic national fee for applications in which the ISR was prepared by either the EPO or the JPO. However, in the present case, it does not appear that an ISR has been prepared by the EPO or the JPO. The file contains the International Preliminary Examination Report (IPER), prepared by the EPO, but it does not contain an ISR. The application was published without a search report, and the EPO's online records for this application do not refer to a search report. Absent evidence that the ISR was prepared by the EPO or the JPO, the appropriate small entity basic national fee here is $530. Applicants have not submitted this required fee. Accordingly, applicants have not submitted the "required reply." Item (1) is not satisfied.

Item (2) is the petition fee required under 37 CFR 1.17. The petition for revival was accompanied by a check in payment of the small entity petition fee. Item (2) is satisfied.

As for item (3), the petition for revival expressly states that the "entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional." Item (3) under 37 CFR 1.137(b) is satisfied.

Under the terms of 37 CFR 1.137(c), the terminal disclaimer listed as item (4) above is not required for this application.

Based on the above, applicants have failed to satisfy all the requirements for a grantable petition under 37 CFR 1.137(b).

CONCLUSION

Applicants petition for revival is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)" and include payment of the outstanding amount required to complete payment of the basic national fee ($530-$375=$155) or evidence that the ISR was prepared by the EPO or JPO (i.e., a copy of the ISR). No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

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

Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
Telephone: (703) 308-6155
Facsimile: (703) 308-6459

06 JAN 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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www.uspto.gov

Mark D. Wieczorek
MAYER, FORTKORT & WILLIAMS
251 North Avenue West, 2nd Floor
Westfield, N.J. 07090

In re Application of
LANG, Christine, et al.
U.S. Application No.: 10/362,794
PCT No.: PCT/IB01/07509
International Filing Date: 30 June 2001
Priority Date: 23 August 2000
Attorney's Docket No.: 00140/006001
For: SCREENING METHOD FOR DISCOVERING AUXILIARY AGENTS PROMOTING ENDOCYTOSIS

DECISION ON RENEWED PETITION UNDER 37 CFR 1.137(b)

In a decision issued by this Office on 12 August 2003, applicant's petition for revival under 37 CFR 1.137(b) was dismissed for failure to satisfy all the requirements for a grantable petition. Specifically, applicants had not provided the "proper reply," which in this case consisted of the payment of the appropriate $530 basic national fee.

On 12 September 2003, applicants filed the renewed petition considered herein. The renewed petition included payment of the outstanding amount of the basic national fee. Applicants have now paid the full $530 basic national fee. The final requirement for a grantable petition has therefore been satisfied.

The renewed petition for revival is **GRANTED.**

This application is being forwarded to the National Stage Processing Branch of the Office Of PCT Operations for further processing, including the mailing of a Notification Of Missing Requirements requiring submission of: (1) an executed declaration; (2) payment of the small entity surcharge for filing the declaration later than thirty months after the priority date; (3) a proper translation of the international application (the drawings in the translation previously filed contain untranslated, non-English words); and the processing fee for filing the translation later than thirty months after the priority date.

Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
Telephone: (703) 308-6155
Facsimile: (703) 308-6459

29 SEP 2005

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Richard P. Berg, Esq.
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5670 Wilshire Blvd., Suite 2100
Los Angeles, CA 90036-5679

In re Application of :
Koh :
Application No. 10/362,816 :
PCT No.: PCT/SG01/00164 :
Int. Filing Date: 20 August 2001 : DECISION
Priority Date: 21 August 2000 :
Atty. Docket No.: B-4977PCT 620709-0 :
For: Order-Handling Inventory :
Management System And Method... :

This is in response to the petition filed on 26 January 2005, which is indicated to be a copy of a petition filed on 17 September 2003 and on 15 July 2004.

BACKGROUND

This international application was filed on 20 August 2001, claimed an earliest priority date of 21 August 2000, and designated the U.S. The United States was elected in a Demand filed prior to the elapse of 19 months from the priority date. The International Bureau communicated a copy of the published international application to the USPTO on 28 February 2002. The 30 month time period for paying the basic national fee in the United States expired at midnight on 21 February 2003.

On 03 October 2003, a Notice of Acceptance (Form PCT/DO/EO/903) was mailed to applicants, indicating that the date of this application under 35 U.S.C. 371(c)(1), (2) and (4) and the "date of receipt of all 35 U.S.C. 371 requirements" were 26 February 2003.

DISCUSSION

Counsel requests that the USPTO "please update all of the records of the USPTO to indicate that the above-identified application entered the U.S. National Stage on February 21, 2003" on the basis of "Express Mail" evidence. The correspondence in question, including *inter alia* the Transmittal Letter, the basic national fee, a copy of the international application, and a declaration of inventorship, were accorded a receipt date of 26 February 2003, rather than the 21 February 2003 date requested by counsel. Under 37 CFR 1.10(c), where a discrepancy can be shown between the filing date accorded to correspondence by the USPTO and the date of deposit as shown as the "date-in" on the "Express Mail" mailing label or other USPS notation, the Commissioner may be petitioned to accord the correspondence a filing date as of the "date-in" or other official USPS notation. The instant petition complies with 37 CFR 1.10(c)(1).

The petition complies with 37 CFR 1.10(c)(2) because an Express Mail mailing label number, EL652175825US, was recorded on the transmittal letter accompanying the correspondence in question.

The petition also complies with 37 CFR 1.10(c)(3) in that counsel has provided a copy of the Express Mail mailing label, number EL652175825US, which shows a "date-in" of "02 21 03." Therefore, it would be appropriate to accord the correspondence at issue a receipt date of 21 February 2003. It should be noted that the Transmittal Letter and return postcard receipt filed on 21 February 2003 itemized an "unsigned" declaration, and the declaration filed on that date was in fact unsigned, but that an executed declaration had been submitted under PCT Rule 4.17(iv).

CONCLUSION

The petition is **GRANTED** to the extent noted above.

This application is being forwarded to the National Stage Processing Branch for further processing, including the preparation and mailing of a new filing receipt showing a "filing date"of **21 February 2003** and a new Notice of Acceptance (Form PCT/DO/EO/903) reflecting a date under 35 U.S.C. 371(c)(1), (2) and (4) of **21 February 2003** and a date under 35 U.S.C. 371 of **21 February 2003**.

Boris Milef
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (571) 272-3283
Fax: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

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November 10, 2007

Patent No. : 7172742 B2
Ser. No. : 10/362845
Inventor(s) : Feng et al.
Issued : Feb. 6, 2007
Title : **METHOD OF PREPARING WET PROCESS PHOSPHORIC ACID**
Docket No. : 12662.1002US01

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 Rules 1.322 and 1.323.

A petition under C.F.R. 1.182 is required to correct errors in spelling or order of inventors names or addresses, since inventor's names or addresses are printed solely in accordance with the type-written names and address and in the order of the type- written names and address on the Declaration, and since the error was the result of applicant's failure to comply with the requirement that the complete and correct names and addresses in correct order be indicated on the Declaration of Oath, no correction is in order here under the provisions of Rules 1.323, unless a petition is granted.

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

However, a petition under 37 CFR 1.182 should be directed to the attention of the Assistant Commissioner for Patents using the following mailing address or FAX number.

By Mail: Commissioner of Patents and Trademarks
P.O. Box 1450
Alexandria, VA 22313-1450

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

Further correspondence concerning this matter should be filed and directed to Decisions

and Certificates of Correction Branch.

Elisha Evans
Cecelia Newman, Supervisor
Decisions & Certificates
of Correction Branch
703 308- 9390 EXT. 110

HAMRE, SCHUMANN, MUELLER & LARSON, P.C.
P.O. BOX 2902
MINNEAPOLIS, MN 55402-0902

CBN/eme

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DNW Apr-09

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

MAILED

MAY 05 2009

OFFICE OF PETITIONS

In re Application of :
Eguchi et al. :
Application Number: 10/362881 : DECISION ON PETITION
Filing Date: 02/27/2003 :
Attorney Docket Number: Q74264 :
:

This is a decision on the petition filed on March 20, 2009, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on March 20, 2009, for failure to timely file a proper reply to the final Office action mailed on September 19, 2008, which set a three (3) month shortened statutory period for reply. On March 19, 2009, applicant filed an amendment after final rejection and a three (3) month extension of time. The filing of the present petition precedes the mailing of Notice of Abandonment.

The Notice of Appeal filed March 20, 2009, has been entered and made of record. Accordingly, the two (2)-month period for filing

---

[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 Director may required additional information where there is a question whether the delay was unintentional; and

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

the Appeal Brief, accompanied by the fee required by law, runs from the date of this decision.

This application is being referred to Technology Center Art Unit 1652 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
29 APR 2004
COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
ALEXANDRIA, VA 22313-1450
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Benoît Castel
Young & Thompson
745 South 23rd Street
Arlington, VA 22202

In re Application of :
Lubitz et al. :
Application No. 10/362,936 :
PCT No.: PCT/DE01/02520 :
Int. Filing Date: 06 July 2001 : DECISION
Priority Date: 31 August 2000 :
Atty. Docket No.: 4001-1129 :
For: Piezoactuator And A Method :
For Producing A Piezoactuator :

This is in response to the petition under 37 CFR 1.181 filed on 02 October 2003.

BACKGROUND

This international application was filed on 06 July 2001 and claimed an earlier priority date of 31 August 2000. A Demand electing the United States was filed prior to the elapse of 19 months from the priority date. The International Bureau transmitted a copy of the published international application to the USPTO on 07 March 2002. Accordingly, the 30 month time period for paying the basic national fee in the United States expired at midnight on 28 February 2003.

On 27 February 2003, applicants filed, *inter alia*, the basic national fee.

On 02 June 2003, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicant, requiring the filing of an executed oath or declaration of the inventors.

DISCUSSION

Counsel indicates that the 02 June 2003 Notification of Missing Requirements "was never received by the undersigned attorney or the law firm of Young & Thompson" and requests withdrawal of the holding of abandonment on that basis. As explained in MPEP 711.03(c), and following *Delgar v. Schuyler, 172 USPQ 513 (D.D.C. 1971),* an adequate showing of non-receipt of papers mailed to applicant by the Office must include (1) a statement by the practitioner that the Office action was not received by the practitioner; (2) a statement attesting that a search of the file jacket and docket records indicates that the Office action was not received; and (3) a copy of the docket record where the non-received Office action would have been entered had it been received (the docket records must also be referenced in petitioner's statement). A review of the totality of evidence now of record

establishes that, within the practice under MPEP 711.03(c), petitioner has satisfied all of requirement (1), (2) and (3).

Regarding requirement (1), the petition includes an appropriate statement.

Regarding requirement (2), petitioner states that "the undersigned attorney attests to the fact that a search of the file jacket and docket records confirms that not a single USPTO action or notice has been received following the filing of the present application." This statement is being accepted in satisfaction of requirement (2).

Regarding requirement (3), the petition is accompanied by appropriate docket records.

DECISION

The petition is **GRANTED** for the reasons explained above.

A copy of the 02 June 2003 Notification of Missing Requirements is enclosed herewith. Applicants have a time period of **TWO (2) MONTHS** (extendable under 37 CFR 1.136(a)) from the mailing date of this decision to reply to the Notification. Failure to timely reply will result in **ABANDONMENT** of this application.

This application is being returned to the National Stage Processing Branch for further processing, including the preparation and mailing of a new Notification of Missing Requirements (Form PCT/DO/EO/905) requiring the filing of an executed oath or declaration of the inventors.

Richard Cole
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (703) 308-6721
Fax: (703) 308-6459

enc: Copy of Notification of Missing Requirements originally mailed 02 June 2003

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Alexandria, VA 22313-1450
www.uspto.gov

LAHIVE AND COCKFIELD, LLP
ONE POST OFFICE SQUARE
BOSTON, MASSACHUSETTS, 02109-2127

MAILED

JUL 19 2010

OFFICE OF PETITIONS

In re Application of :
Trouet et al. : DECISION ON APPLICATION
Application No. 10/362,958 : FOR
Filed: October 24,2003 : PATENT TERM ADJUSTMENT
Atty Docket No. MXI-319US

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT INCLUDING REQUEST FOR RECONSIDERATION UNDER 37 CFR 1.705(d)" filed September 22, 2008 and notice concerning issuance of a certification of correction. This paper was recently forwarded to the undersigned for consideration. Applicants request that the initial determination of patent term adjustment be corrected from four hundred forty-two (442) days to five hundred nineteen (519) days.

The request for correction of the initial determination of patent term adjustment (PTA) is **GRANTED-in-PART**.

The Office has updated the PALM screen to reflect that the correct Patent Term Adjustment determination at the time of issuance is NINE HUNDRED AND THIRTY NINE (939) days. A copy of the updated PALM screen, showing the correct determination, is enclosed.

On July 2, 2008, the Office mailed Issue Notification containing the Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment is 442 days. On September 22, 2008, applicants timely submitted an application for patent term adjustment (with required fee). Applicants dispute the reduction of days for failure to issue the patent within three years associated with the 35 USC 371(b) date and assert that the office failed to reduce the patent term adjustment due to patentee delay under 37 CFR 1.704(b) for delay in filing the sequence listing.

Applicants state that the above-indicated application is not subject to a terminal disclaimer.

The calculation of patent term adjustment has been reviewed and it has been determined the following delays: that with respect to the period of "A" delay 560 is correct, 'B" delay has been determined to be 879 days, with 360 days of applicants delay and with 140 days of "A" and "B" overlap for a total of 939 days. The period of delay of 3 years commences 36 months from the 35USC 371(b) date, i.e. February 24, 2006 and ends on the date of issuance of July 22, 2008, pursuant 37 CFR 1.703(b). The October 31, 2003 date relied upon by the Office is incorrect for the determination of PTA for the B delay. However, it is correct for the "A" period.

The office failed to reduce a period of PTA due to patentee's delay under 37 CFR 1.704(b) and 37 CFR 1.704(c)(6), for the filing of a sequence listing responsive to the Notice of September 5, 2003 and the supplemental sequence listing filed on February 23, 2004. The delay of 172 days is warranted, for a total of 360 days of Applicant's delay.

Given the addition of days from the 371(b) date to the date of issuance and the period of reduction of 360 days, the PTA at the time of issue is nine hundred and thirty nine (939) days.

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

Since the Office will be *sua sponte* issuing a certificate of correction, the patentee is entitled to an opportunity to be heard on the certificate of correction. Patentees are entitled to one month or thirty (30) days whichever is longer to respond to this notice concerning the *sua sponte* issuance of a certificate of correction. Patentees should be advised that this decision and notice to issue certificate of correction does not have any impact on the patentees period of seeking judicial review under 35 USC 154.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-7757.

/Kery A. Fries/

Kery Fries

Senior Legal Advisor
Office of Patent Legal Administration

Enclosure: Copy of adjusted PALM calculation
Draft Certificate of Correction

PALM INTRANET

Day : Monday
Date 7/19/2010
Time: 08:54:34

PTA Calculations for Application: 10/362958			
Application Filing Date:	10/31/2003	PTO Delay (PTO):	630
Issue Date of Patent:	07/22/2008	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	188
Post-Issue Petitions:	0	Total PTA (days):	939
PTO Delay Adjustment:	497		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
80	07/18/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	497		
74.5	07/02/2008	PTA 36 MONTHS	70		
74	07/22/2008	PATENT ISSUE DATE USED IN PTA CALCULATION			
73	06/19/2008	EXPORT TO FINAL DATA CAPTURE			
72	06/18/2008	FINISHED INITIAL DATA CAPTURE			
71	06/18/2008	DISPATCH TO FDC			
70	06/05/2008	APPLICATION IS CONSIDERED READY FOR ISSUE			
69	06/05/2008	WORKFLOW - QUERY REQUEST - FINISH			
68	05/30/2008	ISSUE FEE PAYMENT VERIFIED			
67	05/30/2008	TC RETURN TO PUBS			
66	05/30/2008	ISSUE FEE PAYMENT RECEIVED			
65	03/27/2008	PUBS CASE REMAND TO TC			
64	03/26/2008	SEQUENCE FORWARDED TO PUBS ON TAPE			
63	04/03/2008	WORKFLOW - QUERY REQUEST - BEGIN			
62	04/02/2008	WORKFLOW - QUERY REQUEST - FINISH			
61	03/17/2008	EXPORT TO INITIAL DATA CAPTURE			
60	03/12/2008	MAIL NOTICE OF ALLOWANCE			
59	03/06/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
58	03/06/2008	CASE DOCKETED TO EXAMINER IN GAU			
57	03/03/2008	NOTICE OF ALLOWABILITY			
47	02/24/2008	DATE FORWARDED TO EXAMINER			
46	02/01/2008	AMENDMENT AFTER FINAL REJECTION			
45	11/01/2007	MAIL FINAL REJECTION (PTOL - 326)			
44	10/29/2007	FINAL REJECTION			
42	08/22/2007	DATE FORWARDED TO EXAMINER			
41	08/13/2007	RESPONSE AFTER NON-FINAL ACTION		129	38
40	07/13/2007	MAIL NOTICE OF INFORMAL OR NON-RESPONSIVE AMENDMENT			
39	04/27/2007	DATE FORWARDED TO EXAMINER			
38.1	04/06/2007	INFORMAL OR NON-RESPONSIVE AMENDMENT AFTER EXAMINER ACTION			
38	04/06/2007	RESPONSE AFTER NON-FINAL ACTION		59	36
37	04/06/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
36	11/06/2006	MAIL NON-FINAL REJECTION			
35	10/30/2006	NON-FINAL REJECTION			
34	09/20/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
33	10/19/2006	CORRESPONDENCE ADDRESS CHANGE			
32	08/24/2006	DATE FORWARDED TO EXAMINER			
31	08/14/2006	RESPONSE TO ELECTION / RESTRICTION FILED			
30	07/14/2006	MAIL RESTRICTION REQUIREMENT	560		-1
29	07/10/2006	REQUIREMENT FOR RESTRICTION / ELECTION			
28	06/28/2005	CASE DOCKETED TO EXAMINER IN GAU			
27	12/07/2004	CORRESPONDENCE ADDRESS CHANGE			
26	09/20/2004	REFERENCE CAPTURE ON IDS			
25.7	09/20/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
25	09/20/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
24	06/14/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
23	02/23/2004	PRELIMINARY AMENDMENT			
22	10/31/2003	PRELIMINARY AMENDMENT			
21	06/14/2004	CASE DOCKETED TO EXAMINER IN GAU			
20	05/31/2004	TRANSFER INQUIRY TO GAU			
19	05/13/2004	CLEARED BY OIPE CSR			
18	10/31/2003	371 COMPLETION DATE			
17	05/03/2004	APPLICATION DISPATCHED FROM OIPE			

16	05/03/2004	NOTICE OF DO/EO ACCEPTANCE MAILED			
15	02/23/2004	ADDITIONAL APPLICATION FILING FEES			
13	02/23/2004	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
12	02/23/2004	A SET OF SYMBOLS AND PROCEDURES, PROVIDED TO THE PTO ON A SET OF COMPUTER LISTINGS, THAT DESCRIBE IN			
11	04/05/2004	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
10	01/22/2004	NOTICE OF DO/EO DEFECTIVE RESPONSE MAILED.			
9	10/31/2003	ADDITIONAL APPLICATION FILING FEES			
8	10/31/2003	PRELIMINARY AMENDMENTS			
6	10/31/2003	A SET OF SYMBOLS AND PROCEDURES, PROVIDED TO THE PTO ON A SET OF COMPUTER LISTINGS, THAT DESCRIBE IN			
5	10/31/2003	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
4	10/31/2003	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
3	12/01/2003	CRF IS FLAWED TECHNICALLY / NOT ENTERED INTO DATABASE			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back To go forward, right click here and select Forward. To refresh, right click here and select Refresh.
Back to OASIS | Home page

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,402,556 B2

DATED : July 22, 2008 **Draft**

INVENTOR(S) : Trout, 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 (442) days

Delete the phrase "by 442 days" and insert – by 939 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
www.uspto.gov

#6

Carol Larcher
Leydig, Voit & Mayer, Ltd.
Two Prudential Plaza, Suite 4900
180 North Stetson
Chicago, IL 60601-6780

In re Application of	:	
Lakner et al.	:	
Application No.: 10/362,976	:	DECISION
PCT No.: PCT/EP01/10067	:	
Int. Filing Date: 31 August 2001	:	UNDER
Priority Date: 01 September 2000	:	
Attorney Docket No.: 221507	:	37 CFR 1.497(d)
For: Solution For Preparing Stool Specimens	:	
For Diagnostic Purposes	:	

This is a decision on applicants' "Response To Notification of Defective Response, and Petition to Correct Inventorship" filed on 21 November 2003.

BACKGROUND

This international application was filed on 31 August 2001 and claimed a priority date of 01 September 2000. The International Bureau transmitted a copy of the published international application to the USPTO on 07 March 2002. A Demand electing the United States was filed prior to the elapse of 19 months from the priority date. Consequently, the thirty month period for payment of the basic national fee in the United States expired as of midnight on 01 March 2003.

On 28 February 2003, applicants filed *inter alia* the basic national fee.

On 14 July 2003, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring the submission of an executed oath or declaration of the inventors, a surcharge under 37 CFR 1.492(e), and additional claim fees.

On 10 October 2003, applicant filed a response.

On 29 October 2003, a Notification of Defective Response (Form PCT/DO/EO/916) was mailed to applicants, indicating that the response was defective in that the declaration filed on 10 October 2002 was unacceptable and in that the required additional claim fees had not been paid.

DISCUSSION

The declaration of the inventors filed on 10 October 2003 lists inventors (Cullmann, Heppner, Haindl, Finck, Beneschand Ringeis) whose names do not appear in the published international application.

A declaration filed under 37 CFR 1.497 (d) must be by the actual inventor or inventors as required under 37 CFR 1.63 or as permitted by 37 CFR 1.42, 1.43 or 1.47. The declaration must be accompanied by (1) statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his

or her part, (2) the processing fee set forth in 37 CFR 1.17; and (3) if an assignment has been executed by any of the original named inventors, the written consent of the assignee (*See* 37 CFR 3.73(b)). *See* Section 201.03 of the Manual of Patent Examining Procedure (M.P.E.P.). The papers satisfy requirements (1) and (2).

Regarding requirement (1), applicants have provided statements from each of the inventors sought be added as inventors attesting that the error in inventorship occurred without deceptive intent.

Regarding requirement (2), the instant submission has authorized the required processing fee to be charged to counsel's deposit account.

Regarding requirement (3), inspection of the published international application suggests that Connex Gesellschaft Zur Optimierung Von Forschung Und Entwicklung MBH may enjoy assignment rights in this application, but counsel has neither explicitly addressed the issue of assignment nor furnished satisfactory written consent of any assignee per 37 CFR 3.73(b). In the absence of either acceptable documentation of the assignee's consent or of an affirmative indication that no assignment interests pertain to this application, requirement (3) cannot be said to have been satisfied.

It is further noted that the declaration is not acceptable for the additional reason that it is not clear that each inventor signed a complete copy of the declaration. Rather, the declaration filed on 10 October 2003 appears to have been assembled from individual sheets signed by the inventors.

For the reasons explained above, it would not be appropriate to accept the papers under 37 CFR 1.497(d) on the basis of the present record.

CONCLUSION

The papers filed under 37 CFR 1.497 (d) are not accepted.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Submission Under 37 CFR 1.497(d)". No additional processing fee is required.

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, Alexandria, VA 22313-1450, and address the contents of the letter to the attention of the PCT Legal Office.

Leonard Smith
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (703) 308-6721
Fax: (703) 308-6459

30 MAR 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

#8

COMMISSIONER FOR PATENTS
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www.uspto.gov

Carol Larcher
Leydig, Voit & Mayer, Ltd.
Two Prudential Plaza, Suite 4900
180 North Stetson
Chicago, IL 60601-6780

In re Application of	:	
Lakner et al.	:	
Application No.: 10/362,976	:	DECISION
PCT No.: PCT/EP01/10067	:	
Int. Filing Date: 31 August 2001	:	UNDER
Priority Date: 01 September 2000	:	
Attorney Docket No.: 221507	:	37 CFR 1.497(d)
For: Solution For Preparing Stool Specimens	:	
For Diagnostic Purposes	:	

This is a decision on applicants' "Renewed Petition Under 37 C.F.R. § 1.497(d) And Petition For Extension Of Time" filed on 11 March 2004.

DISCUSSION

On 11 December 2003, a decision on the "Response..." filed on 21 November 2003 was mailed to counsel. Said "Response..." was dismissed without prejudice because counsel had not furnished satisfactory written consent of the assignee per 37 CFR 3.73(b) and because it did not appear that each inventor had signed a complete copy of the declaration.

The instant renewed submission is accompanied by documents establishing a chain of title from the inventors to the current assignee of the entire interest, DakoCytomation Denmark A/S, and by a document showing the written consent of an authorized officer of the assignee to the "correction of inventorship of the subject patent application as requested in the petition filed herewith." The "renewed petition" is further accompanied by complete copies of the declaration, newly executed by each of the inventors. As such, counsel has now satisfied all of the requirements for relief under 37 CFR 1.497(d).

CONCLUSION

The request under 37 CFR 1.497 (d) is **GRANTED**.

The $280.00 in claim fees required by the Notification of Missing Requirements mailed on 14 July 2003 is being charge to counsel's Deposit Account No. 12-1216, as authorized by the "Response..." filed on 21 November 2003.

This application is being forwarded to the National Stage Processing Branch for further processing. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **11 March 2004**.

Leonard Smith
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (703) 308-6721
Fax: (703) 308-6459

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300 S. WACKER DRIVE
32ND FLOOR
CHICAGO IL 60606

MAILED

FEB 0 4 2010

OFFICE OF PETITIONS

In re Application :
Andy Greter et al. :
Application No. 10/362,982 : DECISION ON APPLICATION
Filed: July 14, 2003 : FOR PATENT TERM ADJUSTMENT
Attorney Docket No. **07-2060-C** :

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT filed November 7, 2009. Applicant requests that the determination of patent term adjustment be corrected from 451 days to 790 days. Applicant requests this correction in part on the basis that the Office will take in excess of three years to issue this patent and in light of the court decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).[1]

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 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 of the patent term adjustment concerning those regulations until the patent has issued.

---

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

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.[2]

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within two months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

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

/Kery A. Fries/

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

---

[2] 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.

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.
10/362,997	03/03/2003	Chitoshi Ito	115094	9449

25944 7590 02/24/2009

OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA, VA 22320-4850

EXAMINER	
MCLEAN, NEIL R	
ART UNIT	**PAPER NUMBER**
2625	

MAIL DATE	DELIVERY MODE
02/24/2009	PAPER

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

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

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Alexandria, VA 22313-1450
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OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA VA 22320

In re Application of :
Chitoshi ITO :
Application No. 10/362,997 : DECISION ON PETITION
Filed: March 3, 2003 : TO RESTART PERIOD
For: **RANGE SPECIFICATION DEVICE, RANGE SPECIFICATION METHOD, AND COMPUTER-READABLE RECORD MEDIUM THEREFOR** :

This is a decision on the Petition to Reset the Period for Reply under 37 CFR § 1.181(a) filed September 18, 2008. No fee is required.

Petitioner alleges non-receipt of the final Office action mailed August 11, 2008. In support of the petition, petitioner has provided a statement that the office communication was not received by the petitioner. Petitioner states a routine review of the applications status by accessing the PAIR database was performed and discovered the existence of the August 11, 2008 office action. It was at that time when applicant's representative noticed the August 11, 2008 office action was returned as "undelivered" to the Patent Office on August 12, 2008. Subsequently, on September 8, 2008, the office action was downloaded and docketed. A copy of the docket record where the non-received office communication would have been entered had it been received and docketed was also provided.

A review of the file finds that the U.S. Postal Service returned the original non-final Office action. Although, there was no finding of irregularity in the correspondence address, there was an obvious irregularity in mailing since the Office action was returned. Since applicant has responded to the action the non-final office action will not be re-mailed. Applicant responded to the Office action on December 9, 2008.

The petition is **GRANTED.**

The application is being forwarded to the examiner for treatment of applicant's response.

____/Doris To/_____
Doris To
Quality Assurance Specialist
Technology Center 2600

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#5

Francois Martineau
Lesperance & Martineau
1440 Ouest Rue Ste-Catherine
Montreal H3G1R8 QC H3G 1R8 CA CANADA

In re Application of :
Louis Garneau :
Serial No.: 10/362,999 : **DECISION ON PETITION**
Filed: March 3, 2003 :
For: High Breathability Cyclist Hand Glove :

This is in response to applicants' petition filed March 3, 2003, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

Applicant's petition lacks grounds for petitioning and supporting explanation. Applicant has not satisfied the provisions set forth in M.P.E.P. 708.02, II. Therefore, petition is **DISMISSED**.

The application will be forwarded to the Tech Support personnel for prompt mailing of Office Action.

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

03 FEB 2005

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

Anthony Niewyk
Baker & Daniels
111 East Wayne Street, Suite 800
Fort Wayne, IN 46802

In re Application of :
FATH, et al. :
Application No.: 10/363,001 : DECISION ON PETITION
Filing Date: 26 February 2003 :
Atty Docket No.: RAC0080 : UNDER 37 CFR 1.181
For: METHOD FOR PRODUCING A SOLAR CELL AND A SOLAR CELL PRODUCED ACCORDING TO SAID METHOD :

This decision is in response to applicant's "Petition to Withdraw Abandonment" filed 20 October 2004 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 13 September 2001, applicant filed international application PCT/DE01/03535. The thirty-month period for paying the basic national fee in the United States expired at midnight on 22 September 2003.

On 26 February 2003, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1) and a first preliminary amendment. An oath or declaration as required by 35 U.S.C. 371 (c)(4) was not filed.

On 16 July 2003, applicant was mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) informing applicant of the need to provide an executed oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date. In addition, applicant was notified of the need to provide a surcharge of $130.00 for filing the oath or declaration later than the appropriate 20 or 30 months from the earliest priority date, as well as, payment of the $130.00 processing fee for providing an English translation of the international application later than thirty months from the priority date. Applicant was given two months to respond and advised that this time period could be extended with a proper petition and payment of fees.

On 14 October 2004, applicant was mailed a "Notification of Abandonment" (Form PCT/DO/EO/09) indicating that the present application was abandoned as to the United States of

America for failure to respond to the "Notification of Missing Requirements" (Form PCT/DO/EO/905) mailed 16 July 2003.

On 22 October 2004, applicant filed the present petition to withdraw the holding of abandonment arguing that a proper reply was filed on 20 October 2003.

DISCUSSION

Applicant has provided a legible copy of the receipt postcard which shows a USPTO date stamp, "OIPE JC87 Patent & Trademark Office OCT 20 2003" and clearly identifies in part: "Executed Declaration" and the fee payments detailed above as well as listing the applicant, serial number, title and attorney docket number. The evidence is sufficient to establish that the executed declaration and fee payments were received in the USPTO on 20 October 2003. Applicant has certified that the presently filed copies of the documents are true and complete copies of the papers originally filed on 20 October 2003. In addition, a review of USPTO fee records for the present application shows the fees relevant fees credited by way of check payments on 20 October 2003. As such, it is proper to **GRANT** applicant's petition at this time.

CONCLUSION

Applicant's petition under 37 CFR 1.181 is **GRANTED**.

The "Notification of Abandonment" (Form PCT/DO/EO/909) mailed 14 October 2004 is hereby **VACATED**.

The application will be given an international filing date of 13 September 2001 under 35 U.S.C. 363 and a date of **20 October 2003** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

This application is being returned to the United States Designated/Elected Office (US/DO/EO) for further processing in accordance with this decision, namely the issuance of a "Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495" (Form PCT/DO/EO/903) indicating a 371 date as detailed above.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459

#3

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30 SEP 2003

SMITH, GAMBRELL & RUSSELL, LLP
1230 Peachtree Street, N.E.
Suite 3100, Promenade II

In re Application of	:	DECISION ON
Reece et al	:	
PCT No.: PCT/US01/28929	:	
Application No.: 10/363,021	:	REQUEST UNDER
Int. Filing Date: 14 September 2001	:	
Priority Date: 15 September 2000	:	
Attorney's Docket No.: 031264.047US	:	37 CFR 1.497
For: SUPERCONDUCTING CABLE	:	

This is a decision on applicant's "PETITION UNDER 37 C.F.R. 1.48(a)" filed on 27 February 2003, which is being treated as a request under 37 CFR 1.497 requesting to delete inventor Alan J. LESSER.

BACKGROUND

On 14 September 2001, applicants filed International Application No. PCT/US01/28929 designating the United States and claiming a priority date of 15 September 2000. A copy of the intentional application was transmitted on 21 March 2002 to the USPTO from the International Bureau.

A Demand was filed in this international application on 22 February 2002. Accordingly, the deadline for entry into the national stage by paying the basic national fee in the U.S. expired as of midnight of 15 March 2003.

On 27 February 2003, applicants filed a Transmittal Letter for entry into the national stage in the United States of America. Filed with the Transmittal Letter was, *inter alia*, the requisite basic national fee, an executed declaration and the instant petition.

DISCUSSION

On 28 August 2003, the International Bureau faxed the RO/US a copy of the "REQUEST OF A CHANGE UNDER PCT RULE 92*bis*.1(a) and the NOTIFICATION OF THE RECORDING OF A CHANGE (Form PCT/IB/306).

The "NOTIFICATION OF THE RECORDING OF A CHANGE" Form PCT/IB/306 mailed on 19 December 2001 indicates that applicant/inventor LESSER, Alan was removed from our records.

Accordingly, the international publication and declaration filed on 27 February 2003 reflect the change by the IB and the declaration is accepted because applicants have provided a showing that the applicant/inventor change was effected in accordance with PCT Rule 92*bis* prior to the filing of the present national stage application.

It is noted that under MPEP § 605.04(b), when a typographical error in the spelling of an inventor's name is discovered during pendancy of an application, a petition is not required, nor is a new declaration under **37 CFR 1.63** needed. The U.S. Patent and Trademark Office should simply be notified of the error and reference to the notification paper will be made on the previously filed oath or declaration by the Office. In this instance it is noted that the correct spelling of the first named inventor is REECE, David S was indicated to the USPTO, and it will be reflected in the US national stage processing.

CONCLUSION

The petition under 37 CFR 1.497 is **MOOT.**

The filing receipt will reflect the correct name of the first inventor as "David S. REECE". This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing, including the preparation and mailing of a Notification of Acceptance (Form PCT/DO/EO/903). The 35 USC 371 date of this application is **27 February 2003.**

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Telephone: (703) 308-6312
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Leonard Smith
PCT Legal Examiner
PCT Legal Office

Issue Classification	Application/Control No.	Applicant(s)/Patent under Reexamination	
	10/363,023	KOPRESKI ET AL.	
	Examiner	Art Unit	
	FRANK W. LU	1634	

ISSUE CLASSIFICATION

ORIGINAL			CROSS REFERENCE(S)						
CLASS	SUBCLASS	CLASS	SUBCLASS (ONE SUBCLASS PER BLOCK)						
435	91.2	435	6	91.1	91.51				
INTERNATIONAL CLASSIFICATION		536	23.1	24.3	24.33	25.3			
C 12 P 19/34									
C 12 Q 1/68									
C 07 H 21/02									
C 07 H 21/04									
C 07 H 21/00									

(Assistant Examiner) (Date)	/Frank W Lu/ 2/12/2010 (Primary Examiner) (Date)	Total Claims Allowed: 3	
(Legal Instruments Examiner) (Date)		O.G. Print Claim(s): 1	O.G. Print Fig.: None

☐ Claims renumbered in the same order as presented by applicant ☒ CPA ☒ T.D. ☐ R.1.47

Final	Original	Final	Original	Final	Original	Final	Original	Final	Original	Final	Original	Final	Original
	1		31		61		91		121		151		181
	2		32		62		92		122		152		182
	3		33		63		93		123		153		183
	4		34		64		94		124		154		184
	5		35		65		95		125		155		185
	6		36		66		96		126		156		186
	7		37		67		97		127		157		187
	8		38		68		98		128		158		188
	9		39		69		99		129		159		189
	10		40		70		100		130		160		190
	11		41		71		101		131		161		191
	12		42		72		102		132		162		192
	13		43		73		103		133		163		193
	14		44		74		104		134		164		194
	15		45		75		105		135		165		195
	16		46		76		106		136		166		196
	17		47		77		107		137		167		197
	18		48		78		108		138		168		198
	19		49		79		109		139		169		199
	20		50		80		110		140		170		200
	21		51		81		111		141		171		201
	22		52		82		112		142		172		202
	23		53		83		113		143		173		203
1	24		54		84		114		144		174		204
	25		55		85		115		145		175		205
	26		56		86		116		146		176		206
2	27		57		87		117		147		177		207
	28		58		88		118		148		178		208
3	29		59		89		119		149		179		209
	30		60		90		120		150		180		210

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MAILED

JUN 28 2010

OFFICE OF PETITIONS

In re Application of :
Kopreski, et al. :
Application No. 10/363,023 : ON APPLICATION FOR
Filed: July 17, 2003 : PATENT TERM ADJUSTMENT
Atty Docket No. 00-1313-B

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)" filed March 30, 2010. Applicants submit that the patent term adjustment to be indicated on the patent is five hundred and sixty (560) days, not ninety-one (91) 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 –

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[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

(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 October 30, 2007.

Deposit account 13-2490 will be charged $200.00 for the 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 (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Senior Petitions Attorney
Office of Petitions

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05 AUG 2003

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In re Application of	:	
Krumel, Reed, Olmstead, Roth, King, Brattesani,	:	
Campbell, Davies	:	
Application No. 10/363,025	:	DECISION ON PETITION
PCT No.: PCT/US01/27689	:	UNDER 37 CFR 1.47(a)
International Filing Date: 7 September 2001	:	
Priority Date: 8 September 2000	:	
Attorney Docket No.: 50,319(A)	:	
For: PROCESS TO PRODUCE HALO-4-PHENOXYQUINOLINES		

This is a decision on the applicant's "Petition Under 37 CFR 1.47(a)" filed 30 June 2003, to accept the application without the signature of joint inventor, Thomas A. Olstead.

BACKGROUND

On 7 September 2001, applicant filed international application PCT/US01/27689 which claimed a priority date of 8 September 2000 and designated the United States. The thirty-month period for paying the basic national fee in the United States was midnight, March 8, 2003.

On 27 February 2003, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 USC 371(c)(1).

On June 10, 2003, the United States Designated/Elected Office mailed Notification of Missing Requirements under 35 USC 371 indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed along with the surcharge for the later filing of the oath or declaration. The notification set a two-month time limit in which to respond.

On 30 June 2003, applicant filed the instant petition under 37 CFR 1.47(a). The petition was accompanied by an oath or declaration signed by all the named inventors, except inventor Olstead, and copy of the certified mail return receipt sent attached to correspondence sent to inventor Olstead.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration signed by each 37 CFR 1.47(a) applicant on his behalf and on behalf of the non-signing inventor.

As to Item (1), applicant have authorized the petition fee to be charged to deposit account 04-1529.

As to Item (3), the petition states the last known address of the non-signing inventor, Thomas Olstead.

As to Item (4), applicant has provided an oath or declaration that is signed by each named inventor on his behalf and on behalf of the non-signing inventor.

Accordingly, Items (1), (3), and (4) have been satisfied.

As to Item (2), the *Manual of Patent Examining Procedure* (MPEP), Section 409.03(d) states, in pertinent part, that "[b]efore a refusal can be alleged, it must be demonstrated that a *bona fide* attempt was made to present a copy of the complete application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature." In the present petition, applicant claims that inventor Olmstead either refuses or is unavailable to execute the oath or declaration. Relative to inventor Olmstead's alleged refusal, however, it is unclear what was sent to inventor Olmstead. Further, it is not clear whether Mr. Olmstead still resides at the address to which the papers were sent in light of the fact that the correspondence was returned as undelivered. In order to meet the requirements of Section 409.03(d) of the MPEP, applicant must demonstrate an attempt was made to present a complete copy of the application papers to inventor Olmstead.

As noted previously, applicant maintains that inventor Olmstead either refuses or is unavailable to execute the oath or declaration. Where applicant maintains that the inventor is unavailable, Section 409.03(d) of the MPEP provides that " . . . a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made." The above-cited section of the MPEP also requires that statements of facts, and not conclusions, be provided to substantiate the diligence. The return of the certified letter to applicant from United States Postal Service suggests that the inventor may no longer reside at the address in question. The instant petition does not sufficiently relay the facts relied upon to

establish diligent effort to locate the inventor, i.e., the searches undertaken to determine a new address for inventor Olmstead. The blanket statements provides as to inventor Olmstead's last known address and e-mail address, without more, are conclusive in nature and do not provide adequate facts for the Office to determine whether a diligent effort was made to locate inventor Olmstead.

For the reasons stated above, it would not be appropriate to accept the application without the signature of Thomas Olmstead under 37 CFR 1.47(a) at this time.

CONCLUSION

Applicant's petition under 37 CFR 1.47(a) is DISMISSED, without prejudice.

Applicant's are hereby afforded TWO MONTHS from the mailing date of this decision to file either 1) an oath or declaration in compliance with 37 CFR 1.497(a)-(b) signed by all inventors or (2) a renewed petition satisfying the requirements under 37 CFR 1.47(a). Any reconsideration request should include a cover letter titled, "Renewed Petition Under 37 CFR 1.47(a)." No addition petition fee is required.

Deposit account 04-1529 will be charged $130.00 for the instant petition fee and an additional $130.00 for the surcharge for the late filing of the oath or declaration.

Any further correspondence with respect to this matter should be directed to the Mail Stop PCT, Commissioner for Patents, PO Box 1450, Alexandria, Virginia, 22313-1450.

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26 SEP 2003

Thomas A. Olmstead
7423 Park Village Road
San Diego, CA 92129

In re Application of :
Krumel, Reed, Olmstead, Roth, King, Brattesani, :
Campbell, Davies
Application No. 10/363,025 :
PCT No.: PCT/US01/27689 : LETTER
International Filing Date: 7 September 2001 :
Priority Date: 8 September 2000 :
Attorney Docket No.: 50.319(A) :
For: PROCESS TO PRODUCE HALO-4-
PHENOXYQUINOLINES

Dear Mr. Olmstead:

You are named as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(a) and 35 USC 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.497.

Leonard Smith
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COMMISSIONER FOR PATENTS
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OFFICIAL GAZETTE NOTICE

37 CFR 1.47 Notice of Publication

Notice is hereby given of the filing of a national stage application with a petition under 37 CFR 1.47 requesting acceptance of the application without the signature of all the inventors. The petition has been granted. A notice has been sent to the last known address of the non-signing inventor. The inventor whose signature is missing (Thomas A. Olstead) may join the application by promptly filing an appropriate oath or declaration complying with 37 CFR 1.497. The international application number is PCT/US01/27689 and was filed on 7 September 2001 in the names of Karl Krumel, Ruth Reed, Thomas Olstead, Gary Roth, Ian King, Donald Brattesani, Kent Campbell, and John Davies for the invention titled "PROCESS TO PRODUCE HALO-4-PHENOXYQUINOLINES". The national stage application number 10/363,025 and has a 35 USC 371 date of 30 June 2003.

OK - send electronic copy to pubs - see anyone for e-mail address

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26 SEP 2003

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In re Application of	:	
Krumel, Reed, Olmstead, Roth, King, Brattesani,	:	
Campbell, Davies	:	
Application No. 10/363,025	:	DECISION ON PETITION
PCT No.: PCT/US01/27689	:	UNDER 37 CFR 1.47(a)
International Filing Date: 7 September 2001	:	
Priority Date: 8 September 2000	:	
Attorney Docket No.: 50,319(A)	:	
For: PROCESS TO PRODUCE HALO-4-PHENOXYQUINOLINES		

This is a decision on the applicant's "Reconsideration of Petition under 37 CFR 1.47(a) " filed 22 August 2003, to accept the application without the signature of joint inventor, Thomas A. Olstead.

BACKGROUND

On 7 September 2001, applicant filed international application PCT/US01/27689 which claimed a priority date of 8 September 2000 and designated the United States. The thirty-month period for paying the basic national fee in the United States was midnight, March 8, 2003.

On 27 February 2003, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 USC 371(c)(1).

On June 10, 2003, the United States Designated/Elected Office mailed Notification of Missing Requirements under 35 USC 371 indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed along with the surcharge for the later filing of the oath or declaration. The notification set a two-month time limit in which to respond.

On 30 June 2003, applicant filed a petition under 37 CFR 1.47(a). The petition of 39 June 2003, was dismissed by a decision mailed 5 August 2003. The decision allowed a two month period for reply.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant in his behalf and on behalf of the non-signing inventor. Applicant has provided items (1), (2), (3), and (4).

Accordingly, it is appropriate to accord the national stage application status under 37 CFR 1.47(a).

CONCLUSION

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

The application will be given an international filing date of 7 September 2001 under 35 USC 262, a date of 30 June 2003 under 35 USC 371(c).

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

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision.

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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
10/363,025	06/30/2003	1625	900	50,319A		5	1

CONFIRMATION NO. 7707

25212
DOW AGROSCIENCES LLC
9330 ZIONSVILLE RD
INDIANAPOLIS, IN 46268

FILING RECEIPT

OC000000011009082

Date Mailed: 10/10/2003

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with th 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)

Karl Krumel, Midland, MI;
Ruth Cezar Reed, Saginaw, MI;
Thomas A. Olmstead, Saginaw, MI;
Gary Alan Roth, Midland, MI;
Ian Robert King, King's Lynn, UNITED KINGDOM;
Donald Neil Brattesani, Oakland, CA;
Kent Douglas Campbell, Concord, CA;
John Davies, Midland, MI;

Domestic Priority data as claimed by applicant

This application is a 371 of PCT/US01/27689 09/07/2001
which claims benefit of 60/231,719 09/08/2000

Foreign Applications

Projected Publication Date: To Be Determined - pending completion of Security Review

Non-Publication Request: No

Early Publication Request: No

Title

Process to produce halo-4-phenoxyquinolines

Preliminary Class

546

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

GRANTED

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

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

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

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

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OFFICE OF PETITIONS

In re Application of		
Lacan, et al.	:	
Application No. 10/363,027	:	DECISION ON
Filed: September 3, 2003	:	PETITION
Attorney Docket No. 030259	:	

This is in response to the petition to revive under 37 CFR 1.137(b), filed May 12, 2005.

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

The above-identified application became abandoned for failure to timely pay the issue fee as required by the Notice of Allowance mailed on July 6, 2005. This notice set a statutory period for reply of three months. No issue fee having been received, the above-identified application became abandoned on October 7, 2005. A Notice of Abandonment was mailed on November 23, 2005.

With the instant petition, petitioner paid the petition fee, submitted the required reply in the form of the issue and publication fees, and made the proper statement of unintentional delay.

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

The application is being forwarded to the Office of Patent Publication for processing into a patent.

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

Cliff Congo
Petitions Attorney
Office of Petitions

cc: Charles A. Muserlian
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OFFICE OF PETITIONS

In re Application of :
Amine Benachenou, et al. :
Application No. 10/363,028 : ON PETITION
Filed: August 5, 2003 :
Attorney Docket No. 1181P82US01 :

This is a decision in response to the petition, filed March 20, 2007, to revive the above-identified application under the provisions of 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. However, in accordance with 37 CFR 1.34(a), the signature of Ronald S. Kosie appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. A courtesy copy of this decision is being mailed to petitioner. However, if Mr. Kosie desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. All future correspondence regarding this application file will be directed solely to the address of record.

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 1, 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 20, 2007 the present petition was filed. A Notice of Abandonment was subsequently mailed on April 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 $1,500; and (3) an adequate statement of unintentional delay[1].

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.

[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 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, 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 referred to Technology Center AU 1724 for consideration of the response filed March 20, 2007.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: RONALD KOSIE
BROUILLETTE KOSIE
1100 RENE-LEVESQUE BLVD W 25TH FLOOR
MONTREAL, QC H3B 5-C9

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper N .: _____

DATE : July 24, 2006

TO SPE OF : ART UNIT 1625

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/363033 Patent No.: 6,822,098

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: _____

Thomas McKelvey 1625

SPE **Art Unit**

01 APR 2004

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Nixon & Vanderhye P.C.
1100 North Glebe Road, 8th Floor
Arlington, VA 22201-4714

In re Application of	:	
Penty et al.	:	
Application No.: 10/363,046	:	DECISION
PCT No.: PCT/GB01/03952	:	
Int. Filing Date: 03 September 2001	:	UNDER
Priority Date: 01 September 2000	:	
Attorney Docket No.: 2490-18	:	37 CFR 1.497(d)
For: Integrated Optical Router And	:	
Wavelength Converter Matrix	:	

This is a decision on applicants' "Request To Correct Inventorship" filed on 03 October 2003, which alludes to a "Request..." originally filed on 15 July 2003. The "Request..." is being treated under 37 CFR 1.497(d).

BACKGROUND

This international application was filed on 03 September 2001 and claimed a priority date of 01 September 2000. The International Bureau transmitted a copy of the published international application to the USPTO on 07 March 2002. Consequently, the thirty month period for payment of the basic national fee in the United States expired as of midnight on 01 March 2003.

On 28 February 2003, applicants filed *inter alia* the basic national fee.

DISCUSSION

The declaration of the inventors filed on 03 October 2003 lists an inventor (Ian White) whose name does not appear in the published international application. No Form PCT/IB/306 reflecting the recording of this change is present in the application file. Since the inventive entity named in the declaration differs from that named in the published international application, treatment under 37 CFR 1.497(d) is proper.

A declaration filed under 37 CFR 1.497 (d) must be by the actual inventor or inventors as required under 37 CFR 1.63 or as permitted by 37 CFR 1.42, 1.43 or 1.47. The declaration must be accompanied by (1) statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part, (2) the processing fee set forth in 37 CFR 1.17; and (3) if an assignment has been executed by any of the original named inventors, the written consent of the assignee (*See* 37 CFR 3.73(b)). *See* Section 201.03 of the Manual of Patent Examining Procedure (M.P.E.P.).

Regarding requirement (1), applicants have provided such a statement.

Regarding requirement (2), the required processing fee has been filed.

Regarding requirement (3), inspection of the published international application suggests that the University of Bristol may enjoy assignment rights in this application; this possibility is reinforced by the fact that the copy of a return postcard receipt filed with the instant "Request..." itemizes an

"executed Assignee Consent." However, the application file does not presently show that counsel has either explicitly addressed the issue of assignment or furnished satisfactory written consent of any assignee per 37 CFR 3.73(b). In the absence of either acceptable documentation of the assignee's consent or of an affirmative indication that no assignment interests pertain to this application, requirement (3) cannot be said to have been satisfied.

For the reasons explained above, it would not be appropriate to accept the papers under 37 CFR 1.497(d) on the basis of the present record.

It is noted that the instant "Request..." is accompanied by a copy of a return postcard receipt stamped as received by the USPTO on 15 July 203, but counsel has not explicitly stated whether any of the papers accompanying it are true copies of papers itemized on that postcard receipt. It is further noted that the declaration of the inventors was not itemized on said postcard receipt. Therefore, for the instant "Request..." to be considered a timely response to the Notification of Missing Requirements mailed on 15 May 2003, a three-month extension of time under 37 CFR 1.136(a) is required. The $475.00 extension of time fee is being charged to counsel's Deposit Account No. 14-1140, as authorized by the Transmittal Letter filed on 28 February 2003.

CONCLUSION

The declaration filed on 03 October 2003 is not accepted under 37 CFR 1.497 (d).

If reconsideration on the merits of this matter is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are available. Failure to timely file a proper reply (e.g., a proper submission under 37 CFR 1.492(d)) will result in **ABANDONMENT** of this application. Any reconsideration request should include a cover letter entitled "Renewed Submission Under 37 CFR 1.497(d)". No additional processing fee is required.

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, Alexandria, VA 22313-1450, and address the contents of the letter to the attention of the PCT Legal Office.

Boris Milef
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (703) 308-6721
Fax: (703) 308-6459

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Nixon & Vanderhye P.C.
1100 North Glebe Road, 8th Floor
Arlington, VA 22201-4714

In re Application of	:	
Penty et al.	:	
Application No.: 10/363,046	:	DECISION
PCT No.: PCT/GB01/03952	:	
Int. Filing Date: 03 September 2001	:	UNDER
Priority Date: 01 September 2000	:	
Attorney Docket No.: 2490-18	:	37 CFR 1.497(d)
For: Integrated Optical Router And	:	
Wavelength Converter Matrix	:	

This is a decision on applicants' "Renewed Submission Under 37 CFR 1.497(d)" filed on 20 April 2004.

DISCUSSION

In a decision mailed on 01 April 2004, the declaration of the inventors filed on 03 October 2003 was not accepted under 37 CFR 1.497(d) because

> Regarding requirement (3), inspection of the published international application suggests that the University of Bristol may enjoy assignment rights in this application; this possibility is reinforced by the fact that the copy of a return postcard receipt filed with the instant "Request..." itemizes an "executed Assignee Consent." However, the application file does not presently show that counsel has either explicitly addressed the issue of assignment or furnished satisfactory written consent of any assignee per 37 CFR 3.73(b). In the absence of either acceptable documentation of the assignee's consent or of an affirmative indication that no assignment interests pertain to this application, requirement (3) cannot be said to have been satisfied.

In response, counsel has submitted a copy of an assignment document in favor of assignee The University of Bristol, executed by joint inventors Richard Vincent Penty, Siyuap Yu and Ian White. Counsel has also submitted an "Assignee Consent" document assenting to the addition of Ian White as an inventor, and signed by Andrew Farley, who also asserts "that I am authorized to executed the present Consent on behalf of the University of Bristol." As such, applicants have now satisfied all of the requirements of 37 CFR 1.497(d).

CONCLUSION

The declaration filed on 03 October 2003 is **accepted** under 37 CFR 1.497 (d).

This application is being forwarded to the National Stage Processing Branch for further processing. The date of the application under 35 U.S.C. 371(c)(1), (2) and (4) is **03 October 2003**.

Leonard Smith
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
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Fax: (703) 308-6459
(571) 273-0459

30 SEP 2003

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Armstrong Westerman & Hattori LLP
1725 K Street, NW
Suite 1000
Washington, DC 20006

In re Application of
ATHINARAYANAN, Sundaresan, et al.
Application No.: 10/363,050
PCT No.: PCT/JP01/07280
Int. Filing Date: 24 August 2001
Priority Date: 01 September 2000
Attorney's Docket No.: 030231
For: PRODUCTION METHOD FOR COMPOSITE OXIDE THIN FILM DEVICE

DECISION ON

REQUEST

UNDER 37 CFR 1.42

This is a decision on applicants' "Response to Notice of Missing Requirements," filed in the United States Patent and Trademark Office on 12 August 2003, which has been treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 24 August 2001, applicants filed international application PCT/JP01/07280. A demand electing the United States was filed on 22 November 2001, within nineteen months of the priority date. A copy of the international application was transmitted to the Office by the International Bureau on 14 March 2002. Accordingly, the deadline for entering the national stage in the United States was midnight of 03 March 2003 (01 March 2003 was a Saturday).

On 28 February 2003, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the basic national fee and a declaration.

On 17 June 2003, the office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the surcharge for late filing of the oath or declaration were required. It indicated that the declaration on file listed inventors who were not listed as inventors on the international application.

On 12 August 2003, applicants filed the instant request accompanied by a declaration of the inventors.

DISCUSSION

Under 35 U.S.C. §117, legal representatives of deceased inventors may make application for patent upon compliance with the requirements and on the same terms and conditions

applicable to the inventor. The "legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent." 37 C.F.R. 1.42.

The declaration provided does not state that the five joint heirs are all of the heirs. If a legal representative has been or is required to be appointed under applicable law, such person must sign the declaration and indicate the relationship, e.g., "legal representative of inventor Hideo Ihara." Otherwise, all heirs of Hideo Ihara must sign the declaration and indicate the relationship, *e.g.*, "sole heirs of Hideo Ihara," or "legal representative of Hideo Ihara." The indication that the heirs are five joint heirs leaves open the possibility that there are other non-signing joint heirs.

CONCLUSION

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

Applicants are required to submit an oath or declaration in compliance with 37 CFR 1.497 and 1.42 within a time period of **TWO (2) MONTHS** from the mail date of this Decision. THIS PERIOD FOR RESPONSE MAY BE EXTENDED UNDER 37 CFR 1.136(a). FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT. Any request for reconsideration of this decision should include a cover letter entitled "Renewed Request Under 37 CFR 1.42."

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

Richard Cole
PCT Legal Examiner
PCT Legal Administration

Erin M. Pender
Attorney Advisor
PCT Legal Administration

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

10 MAR 2004

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Westerman, Hattori, Daniels & Adrian, LLP
1250 Connecticut Ave, NW
Suite 700
Washington, DC 20036

In re Application of
ATHINARAYANAN, Sundaresan, et al.
Application No.: 10/363,050
PCT No.: PCT/JP01/07280
Int. Filing Date: 24 August 2001
Priority Date: 01 September 2000
Attorney's Docket No.: 030231
For: PRODUCTION METHOD FOR COMPOSITE OXIDE THIN FILM DEVICE

DECISION ON

REQUEST

UNDER 37 CFR 1.42

This is a decision on applicants' "Renewed Request Under 37 CFR 1.42," filed in the United States Patent and Trademark Office on 20 November 2003.

BACKGROUND

On 24 August 2001, applicants filed international application PCT/JP01/07280. A demand electing the United States was filed on 22 November 2001, within nineteen months of the priority date. A copy of the international application was transmitted to the Office by the International Bureau on 14 March 2002. Accordingly, the deadline for entering the national stage in the United States was midnight of 03 March 2003 (01 March 2003 was a Saturday).

On 28 February 2003, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the basic national fee and a declaration.

On 17 June 2003, the office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the surcharge for late filing of the oath or declaration were required. It indicated that the declaration on file listed inventors who were not listed as inventors on the international application.

On 12 August 2003, applicants filed a request under 37 CFR 1.42 and a declaration of the inventors.

DISCUSSION

Under 35 U.S.C. §117, legal representatives of deceased inventors may make application for patent upon compliance with the requirements and on the same terms and conditions applicable to the inventor. The "legal representative (executor, administrator, etc.) of the

deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent." 37 C.F.R. 1.42. The signature of all of the heirs (or if there is only one heir, the sole heir) may qualify as the signature of the legal representative, if under applicable law, the heirs' authority corresponds to that of a legal representative. See MPEP 409.01(d).

The declaration is signed by five heirs, who indicate that they are all of the heirs of Hideo Ihara. The submission of the declaration signed by the heirs is construed as an indication that a legal representative has not been appointed nor is one required to be appointed by applicable law, and thus, the heirs are signing as the legal representative of the estate. See MPEP 409.01(d). If this interpretation is incorrect, applicants are required to promptly notify the Office of such and to submit a declaration properly executed by the legal representative of the deceased inventor in response to the decision. The declaration complies with 37 CFR 1.497(a)-(b).

CONCLUSION

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

The application has an international filing date of 24 August 2001 under 35 U.S.C. §363 and a date of 20 November 2003 under 35 U.S.C. §§371(c)(1), (c)(2) and (c)(4). This application is being forwarded to the National Stage Processing Division of the Office of the PCT Operations for continued processing.

By authority for

Boris Milef
PCT Legal Examiner
PCT Legal Administration

Erin M. Pender
Attorney Advisor
PCT Legal Administration

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

24 AUG 2004

#4

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Jeffrey A. Wyand
Leydig, Voit & Mayer
700 Thirteenth Street, N.W., Suite 300
Washington, D.C. 20005-3960

In re Application of	:	
Ito	:	
Application No.: 10/363,063	:	DECISION ON
PCT No.: PCT/JP01/05658	:	
Int. Filing Date: 29 June 2001	:	PETITION
Priority Date: None	:	
Attorney's Docket No.: 402535/SOGA	:	UNDER 37 CFR 1.181
For: EMERGENCY BRAKE APPARATUS FOR ELEVATOR SYSTEMS	:	

This decision is in response to applicant's communication filed on the 24 February 2004 requesting that the Patent Office vacate the"NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) mailed 20 June 2003. This communication is being treated as a petition under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 24 August 2001, applicant filed international application PCT/JP01/05658. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 30 January 2003. Accordingly, the thirty-month period for paying the basic national fee for the national stage in the United States expired at midnight on 24 February 2004.

On 28 February 2003, applicant filed a letter for entry into the national stage in the United States which was accompanied by, *inter alia*, an application data sheet and the basic national fee of $900 as required by 35 U.S.C. 371(c). These papers were assigned application number 10/363,063.

On 20 June 2003, the United States Patent and Trademark Office in its capacity as an Elected Office mailed out a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)"

(Form PCT/DO/EO/905) indicating that applicant was required to file an oath/declaration and a surcharge fee. The notice set a response period of two (2) months.

On 24 February 2004, applicant filed the current communication requesting that the Patent Office vacate the "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) mailed 20 June 2003.

The applicant also filed similar requests on 24 June 2004, and on 24 July 2004. This decision is responsive to all three communications.

DISCUSSION

A review of the application file reveals that applicant provided the correct customer number on the original transmittal letter, as well as the application data sheet, filed on 28 February 2003. However, an error was made upon entry of that number. As a result the "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) mailed 20 June 2003 was mailed to the wrong address.

It is noted that a declaration in compliance with 37 CFR 1.497 (a)-(b), and authorization to charge the surcharge for filing the declaration after 30 months from the earliest priority date (37 CFR 1.492(e) were filed 24 February 2004.

CONCLUSION

For the above reasons, the petition under 37 CFR 1.181 is **GRANTED**.

The "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) indicating that applicant was required to file an oath/declaration and a surcharge fee mailed 20 June 2003 is hereby **VACATED**.

The application is being returned to the United States Designated/Elected Office for processing in accordance with this decision, and the according of a 35 U.S.C. 371 (a) (1), (2) and (4) date of 24 February 2004.

Debra S. Brittingham
PCT Special Programs Examiner
PCT Legal Office

Conferee: Boris Milef
PCT Legal Examiner
PCT Legal Office

DSB/BM:dsb
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MAILED

MAR 26 2008

TECHNOLOGY CENTER 2100

Jordan And Hamburg Llp
122 East 42nd Street
Suite 4000
New York, NY 10168

In re Application of:
Takeshi SAITO
Appl. No.: 10/363066
Filed: February 28, 2003
For: SERVICE PROVIDING METHOD

DECISION ON PETITION
UNDER 37 CFR § 1.103(c)

This is a decision on the petition for suspension of prosecution under 37 CFR § 1.103(c) filed on Dec 31, 2007.

The petition is **GRANTED**.

Pursuant to applicant's request filed on Dec 31, 2007, action by the Office is suspended on this application under 37 CFR § 1.103(a) for a period of three (3) months from Dec 31, 2007. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

Since applicant did not use the check box provided on the transmittal form PTO/SB/30, or submit the request on a separate paper; the suspension was not detected for timely processing. An office action was mailed on Mar 17, 2008, within the 3 month suspension; the office action mailed Mar 17, 2008 is hereby vacated.

Suspension of action under 37 CFR § 1.103(a)-(d) at the applicant's request will cause a reduction in patent term adjustment accumulated (if any) under 37 CFR § 1.703. The reduction is equal to the number of days beginning on the date a request for suspension of action was filed and ending on the date of the termination of the suspension. See 37 CFR § 1.704(c)(1).

Any inquiry concerning this decision should be directed to Kim Huynh whose telephone number is (571) 272-4147.

Kim Huynh,
Quality Assurance Specialist,
Technology Center 2100
Computer Architecture, Software, and
Information Security

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)
7016473	2006-03-21	10363068	2003-02-28	2483.0080000

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	/GB/	Date (YYYY-MM-DD)	2010-04-23
Name	GEORGE S. BARDMESSER	Registration Number	44020

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

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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In re Patent No. 7016473
Issue Date: March 21,2006
Application No. 10363068
Filed: February 28,2003
Attorney Docket No. 2483.0080000

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

This is a decision on the electronic petition, filed April 23,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of April 23,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

30 SEP 20

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Fulbright & Jaworski
865 South Figueroa
Twenty-Ninth Floor
Los Angeles, CA 90017-2517

In re Application of:	:	
Smith et al.	:	
Application No.: 10/363,086	:	DECISION
PCT No.: PCT/AU01/01138	:	
Int. Filing Date: 11 September 2001	:	UNDER
Priority Date: 11 September 2000	:	
Atty. Docket No.: LA-7391-101.US	:	37 CFR 1.47
For: A Dispensing Cap	:	

This is in response to the "Response To Notification Of Missing Requirements Under 35 USC 371" filed on 11 August 2003, which is being treated as a petition under 37 CFR 1.47(a).

BACKGROUND

This international application was filed on 11 September 2001 and claimed earliest priority of an application filed on 11 September 2000. The International Bureau transmitted a copy of the published international application to the USPTO on 14 March 2002. A Demand electing the United States was filed prior to the elapse of 19 months from the priority date. Accordingly, the 30 month time period for paying the basic national fee in the United States expired at midnight on 11 March 2003. On 28 February 2003, applicants filed *inter alia* the basic national fee.

On 10 June 2003, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring the submission of an executed oath or declaration of the inventors and a surcharge under 37 CFR 1.492(e).

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor. Petitioner has satisfied requirements (1) and (4), but has not satisfied requirements (2) and (3).

Regarding requirement (1), the petition fee is being charged to counsel's Deposit

Account as authorized by the petition.

Regarding requirement (2), the petition is accompanied by a "Statement Of Facts In Support Of Filing On Behalf Of Non-Signing Inventor," but this "Statement" neither alleges nor shows either that non-signing joint inventor could not be found or reached after diligent effort nor that he refused to sign an oath or declaration after being presented with a complete copy of the application. To be granted relief, petitioner must present sufficient evidence (including, as appropriate, documentary evidence and statements by persons having first-hand knowledge of the facts alleged) to establish either that non-signing joint inventor could not be found or reached after diligent effort nor that he refused to sign an oath or declaration after being presented with a complete copy of the application. In the absence of such a showing, petitioner has not satisfied requirement (2).

Regarding requirement (3), the petition includes a statement of Mr. Redmond's last known address. Accordingly, requirement (3) has been satisfied.

Regarding requirement (4), the declaration is not acceptable for purposes of compliance with 35 U.S.C. 371 because it does not state Rhonda Kerryn Smith's citizenship.

CONCLUSION

The petition is **DISMISSED**, without prejudice.

The $65 petition fee is being charged to counsel's Deposit Account No. 50-0337.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, Alexandria, VA 22313-1450, and address the contents of the letter to the attention of the PCT Legal Office.

Leonard Smith
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PCT Legal Office

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06 AUG 2004
UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Application of:	:	
Smith et al.	:	
Application No.: 10/363,086	:	DECISION
PCT No.: PCT/AU01/01138	:	
Int. Filing Date: 11 September 2001	:	UNDER
Priority Date: 11 September 2000	:	
Atty. Docket No.: LA-7391-101.US	:	37 CFR 1.47
For: A Dispensing Cap	:	

This is in response to the renewed petition under 37 CFR 1.47(a) filed on 02 April 2004.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor. In a decision mailed on 30 September 2003, it was indicated that the petition filed on 11 August 2003 had satisfied requirements (1) and (4), but had not satisfied requirements (2) and (4).

Regarding requirement (2), the petition is accompanied by a Declaration of Michael Angliss," which indicates in part that Mr. Angliss has "attempted to contact" non-signing joint inventor Colin Redmond at his last known address, but Mr. Angliss does not provide any details of the asserted attempt other than the fact that he "left a business card." It is not clear whether there was more than one attempt made, whether the attempt took the form of a personal visit, whether an attempt was made to mail an oath or declaration of the inventors and a copy of the application papers to Mr. Redmond, nor are any other details provided. The petition is also accompanied by a "Declaration" signed by Rhonda K. Smith, which states that Mr. Redmond was in the process of moving in December 2001, but this "declaration"does not detail any evidence of what diligent efforts if any have been made to locate Mr. Redmond.

Regarding requirement (4), the "declaration" signed by Ms. Smith states that she is "a citizen of Australia." However, this statement is insufficient because the indication of citizenship is required to be made in the context of a formal oath or declaration of the inventors -- e.g., by being included on a declaration of the inventors form like that Ms. Smith signed on

"06.08.03." A declaration of the inventors found to be defective for lack of an indication of citizenship cannot be cured by the filing of a supplemental paper; instead, a newly executed declaration is required.

CONCLUSION

For the reasons described above, the petition is **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, Alexandria, VA 22313-1450, and address the contents of the letter to the attention of the PCT Legal Office.

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#9

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FULBRIGHT AND JAWORSKI LLP
555 S. FLOWER STREET, 41ST FLOOR
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31 JAN 2007

In re Application of:
Smith et al.
Application No.: 10/363,086
PCT No.: PCT/AU01/01138
Int. Filing Date: 11 September 2001
Priority Date: 11 September 2000
Atty. Docket No.: LA-7391-101.US
For: A Dispensing Cap

DECISION
UNDER
37 CFR 1.137(b)

This is in response to the petition under 37 CFR 1.137(b) filed on 31 May 2006.

BACKGROUND

On 06 August 2004, a Decision was mailed to applicants, dismissing the petition under 37 CFR 1.47(a) filed on 02 April 2004. The Decision set a period for response as follows:

> If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

This international application became abandoned with respect to the national stage in the United States for failure to timely reply to the Decision mailed on 06 August 2004.

DISCUSSION

On 31 May 2006, applicants filed the instant petition, directed to this application number, which was placed in the Image File Wrapper (IFW) for application no. 11/421,454. The petition alludes to the filing of a reply in the form of a "Continuation Application;" it appears that applicants seek revival of the instant national stage application for purposes of establishing co-pendency with application no. 11/421,454. However, inspection of the instant petition reveals that it has not been signed by a registered practitioner; therefore, it would be inappropriate to treat the merits of the petition at this time.

DECISION

The petition under 37 CFR 1.137(b) is **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)." Extensions of time may be obtained under 37 CFR 1.136(a).

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

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15 MAR 2007

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#11

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In re Application of:	:	
Smith et al.	:	
Application No.: 10/363,086	:	DECISION
PCT No.: PCT/AU01/01138	:	
Int. Filing Date: 11 September 2001	:	UNDER
Priority Date: 11 September 2000	:	
Atty. Docket No.: LA-7391-101.US	:	37 CFR 1.137(b)
For: A Dispensing Cap	:	

This is in response to the renewed petition under 37 CFR 1.137(b) filed on 06 March 2007.

DISCUSSION

In a Decision mailed on 31 January 2007, the petition under 37 CFR 1.137(b) filed on 31 May 2006 was dismissed without prejudice because

> On 31 May 2006, applicants filed the instant petition, directed to this application number, which was placed in the Image File Wrapper (IFW) for application no. 11/421,454. The petition alludes to the filing of a reply in the form of a "Continuation Application;" it appears that applicants seek revival of the instant national stage application for purposes of establishing co-pendency with application no. 11/421,454. However, inspection of the instant petition reveals that it has not been signed by a registered practitioner; therefore, it would be inappropriate to treat the merits of the petition at this time.

In response, petitioner argues that "Although a Petition without a signature was initially filed, a petition with a proper signature was immediately filed on that same day to rectify the error." Review of the records of the USPTO reveals that such a signed petition was in fact filed on 31 May 2006. As such, consideration of the merits of the petition is now proper.

The petition under 37 CFR 1.137(b) is hereby **GRANTED** as follows:

Applicant states that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional." This statement is being accepted in satisfaction of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has filed the required reply in the form of a continuation (application no. 11/421,454), and has paid the petition fee. Thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America for purposes of establishing co-pendency with continuation application no. 11/421,454. Co-pendency having been established, this international application again stands abandoned with respect to the National stage in the United States.

DECISION

The petition under 37 CFR 1.137(b) is **GRANTED**, to the extent noted above.

This application is being forwarded to the Files Repository.

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24 FEB 2004

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Carmella L. Stephens
BAKER BOTTS L.L.P.
30 Rockefeller Plaza
New York, NY 10112-4498

In re Application of
ARLEN, Myron *et al*
U.S. Application No.: 10/363,095
PCT No.: PCT/US01/26734
Int. Filing Date: 28 August 2001
Priority Date: 01 September 2000
Attorney Docket No.: 32234-PCT-USA
For: THE IDENTIFICATION AND DEVELOPMENT OF SPECIFIC MONOCLONAL ANTIBODIES TO SQUAMOUS CELL CARCINOMA

DECISION ON PETITION UNDER 37 CFR 1.47(a)

This is a decision on applicants' petition under 37 CFR 1.47(a) filed 29 December 2003.

BACKGROUND

On 23 May 2003, the United States Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 indicating that an oath/declaration in compliance with 37 CFR 1.497(a) and (b) must be provided. Applicants were given two months to respond with extensions of time available.

On 29 December 2003, applicants submitted a response which was accompanied by, *inter alia*, a petition under 37 CFR 1.47(a); a declaration signed by one of the two named joint inventors; a five-month extension and fee; the $130.00 petition fee; a "Declaration of Carmella L. Stephens" ("Decl."); a copy of a Federal Express label denoted Exhibit D; a copy of a Federal Express Track Shipments page denoted Exhibit E; and a copy of a letter from the nonsigning joint inventor denoted as Exhibit F.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the required petition fee; (2) factual proof that the missing joint inventor refuses to execute the application or cannot be found or reached after diligent effort; (3) a statement of the last known address of the missing joint inventor; (4) and an oath or declaration executed by the signing joint inventor on his behalf and on behalf of the non-signing joint inventor. Applicants failed to satisfy item (2).

Concerning item (1), the $130.00 petition fee has been paid.

Regarding item (2), the 37 CFR 1.47(a) applicants claim that Mr. Arlen refuses to sign the declaration in the above-captioned application. Section 409.03(d) of the MPEP explains what is required to prove a refusal by an inventor and states, in part:

> A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney. . . .
>
> 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. . . . Proof that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient. . . . When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. . . .
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition.

Here, applicants submitted a declaration by Ms. Carmella L. Stephens who states that "[o]n November 25, 2003, I forwarded an unexecuted Combined Declaration and Power of Attorney and a copy of the application, as filed, via FedEx to Dr. Arlen at his home address." Decl. at # 7. A copy of this letter and the Federal Express mailing label was included in the instant petition as Exhibits C & D. Ms. Stephens declares that "[o]n December 11, 2003, I received a letter and package from Dr. Arlen, . . . The letter indicated that Dr. Arlen was no longer associated with IBS in any capacity. He also requested that no further correspondence be sent to him regarding IBS or intellectual property matters relating to IBS." Id. at # 8. A copy of this letter was included in the instant petition as Exhibit F.

A review of the petition and exhibits show that the letter dated 25 November

2003 and associated documents including a complete copy of the above-identified application were delivered by Federal Express to the last known address of Dr. Arlen on 26 November 2003. The letter written by Dr. Arlen in response to this delivery constitutes a written refusal to join in the above-captioned application. This is sufficient to satisfy item (2).

With regard to item (3), applicants satisfy this requirement by listing the last known address of the nonsigning co-inventor, Mr. Myron Arlen, as:

81 Wensley Drive
Great Neck, NY 11020

Regarding item (4), the 37 CFR 1.47(a) applicants submitted a declaration signed by two of the three joint inventors on behalf of the nonsigning joint inventors. All the inventors' names, residences, post office addresses and citizenship are typed on this declaration as required by section 409.03(a) of the MPEP. The declaration is also in compliance with 37 CFR 1.497(a) & (b).

Accordingly, all the requirements of 37 CFR 1.47(a) have been satisfied.

CONCLUSION

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

Applicants have completed the requirements for acceptance under 35 U.S.C. § 371(c). The application has an international filing date of 28 August 2001 under 35 U.S.C. 363, and a 35 U.S.C. 371 date of **29 December 2003**.

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the non-signing inventor at his last known address of record and will be published in the Official Gazette

James Thomson
Attorney Advisor
Office of PCT Legal Administration

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24 FEB 2004

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Myron Arlen
81 Wensley Drive
Great Neck, NY 11020

In re Application of
ARLEN, Myron *et al*
U.S. Application No.: 10/363,095
PCT No.: PCT/US01/26734
Int. Filing Date: 28 August 2001
Priority Date: 01 September 2000
Attorney Docket No.: 32234-PCT-USA
For: THE IDENTIFICATION AND DEVELOPMENT OF SPECIFIC MONOCLONAL ANTIBODIES TO SQUAMOUS CELL CARCINOMA

Mr. Arlen:

You are named as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. § 116. Should a patent be granted, you will be designated as an inventor.

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

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Attorney Advisor
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Carmella L. Stephens
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#9

Striker, Striker & Stenby
103 East Neck Road
Huntington, NY 11743

In re Application of:	:	
Wendt et al.	:	
Application No.: 10/363,096	:	DECISION
PCT No.: PCT/DE02/02301	:	
Int. Filing Date: 22 June 2002	:	ON
Priority Date: 29 June 2001	:	
Atty. Docket No.: 2512	:	PETITION
For: Protective Device For A Hand Machine Tool	:	:

This is in response to the "Response To Notification Of Defective Response" filed on 10 December 2003.

BACKGROUND

This international application was filed on 22 June 2002, claimed a priority date of 29 June 2001, and designated the United States. The International Bureau communicated a copy of the published international application to the USPTO on 16 January 2003. Accordingly, the 30-month period to pay the basic national fee expired at midnight on 29 December 2003.

On 20 March 2003, applicant filed *inter alia* the basic national fee.

On 04 June 2003, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to counsel, requiring the filing of an executed oath or declaration.

On 12 June 2003, counsel filed *inter alia* an executed declaration.

On 30 June 2003, a Notification Of Defective Response (Form PCT/DO/EO/916) was mailed to counsel, and indicated that the declaration filed on 12 June 2003 "is not executed in accordance with either 37 CFR 1.66 or 37 CFR 1.68. The second inventor, Juergen Schanbacher, on the declaration is not mentioned on the published international application. In addition, I do not have an IB Form 306 indicating that Juergen Schanbacher is added as an inventor."

DISCUSSION

The current "Response..." is accompanied by a copy of a Form PCT/IB/306 recording Juergen SCHANBACHER as "inventor only," and another Form PCT/IB/306 recording Heidemarie SCHANBACHER as "applicant only for US only, as the heiress of deceased inventor SCHANBACHER, Juergen."

37 CFR 1.42 provides in part that

In case of the death of the inventor, the legal representative (executor,

administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent.

Meanwhile, 37 CFR 1.497(b)(2), as amended effective 08 September 2000, provides that

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

Review of the declarations filed on 12 June 2003 reveals that Heidemarie SCHANBACHER has signed on behalf of deceased joint inventor Juergen SCHANBACHER in the capacity of "sole heir."

> The submission of the declaration executed by all of the heirs of the deceased inventor is hereby construed as an indication that no legal representative of the deceased's estate has been appointed or is statutorily required to be appointed. If this interpretation is incorrect applicant is required to promptly notify the Office of such and to submit a declaration properly executed by the legal representative of the deceased inventor in response to this decision.

Based on the present record, it would be appropriate to accept the papers under 37 CFR 1.42 at this time.

CONCLUSION

The submission under 37 CFR 1.42 is **ACCEPTED**.

This application is being forwarded to the National Stage Processing Branch for further processing. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **12 June 2003**.

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COPY MAILED

FEB 15 2005

OFFICE OF PETITIONS

In re Patent of :
Bratvedt et al. :
Application No. 10/363,117 : DECISION
Filed: July 30, 2003 : ON PETITION
Title of Invention: :
METHOD OF DETERMINING FLUID FLOW :

This is a decision in response to the Renewed Petition Under 37 CFR § 1.137(b), filed November 23, 2004, to revive the above-identified application.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed May 3, 2004. The Office action set a three (3) month period for reply. No extensions of time having been obtained under 37 CFR 1.136(a), this application became abandoned on November 4, 2004. A Notice of Abandonment was mailed on November 16, 2004.

With the instant petition, Petitioner has satisfied the requirements of a grantable petition under 37 CFR 1.137(b). A response to the May 3, 2004 Office action is filed with the instant petition. Accordingly, the petition is granted.

This application is being referred to Technology Center Art Unit 2863 for processing of the Amendment and Response, filed November 23, 2004, in due course.

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

Derek L. Woods
Attorney/Advisor
Office of Petitions

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JUL 22 2005

OFFICE OF PETITIONS

In re Patent of :
Bratvedt et al. : CORRECTED
Application No. 10/363,117 : DECISION
Filed: July 30, 2003 : ON PETITION
Title of Invention: :
METHOD OF DETERMINING FLUID FLOW :

This is a corrected decision in response to the Renewed Petition Under 37 CFR § 1.137(b), filed November 23, 2004, to revive the above-identified application.

This Petition is hereby **dismissed**.

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed May 3, 2004. The Office action set a three (3) month period for reply. No extensions of time having been obtained under 37 CFR 1.136(a), this application became abandoned on November 4, 2004. A Notice of Abandonment was mailed on November 16, 2004.

Applicant files the instant unexecuted petition. As such, the petition may not be treated on the merits.

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

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

By FAX: (703) 872-9306
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) 272-3232.

Derek L. Woods
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

Danita Maseles
Patent Counsel
5599 San Felipe
Suite 1700
Houston, TX 77056-2722

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AUG 0 8 2005

OFFICE OF PETITIONS

In re Patent of :
Bratvedt et al. :
Application No. 10/363,117 : DECISION
Filed: July 30, 2003 : ON PETITION
Title of Invention: :
METHOD OF DETERMINING FLUID FLOW :

This is a decision in response to the Renewed Petition Under 37 CFR § 1.137(b), filed July 20, 2005, to revive the above-identified application[1].

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed May 3, 2004. The Office action set a three (3) month period for reply. No extensions of time having been obtained under 37 CFR 1.136(a), this application became abandoned on November 4, 2004. A Notice of Abandonment was mailed on November 16, 2004.

With the instant petition, Petitioner has satisfied the requirements of a grantable petition under 37 CFR 1.137(b). A response to the May 3, 2004 Office action was filed November 23, 2004. Accordingly, the petition is granted.

This application is being referred to Technology Center Art Unit 2863 for processing of the Amendment and Response, filed November 23, 2004, in due course.

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

Derek L. Woods
Attorney/Advisor
Office of Petitions

[1] A petition filed November 23, 2004 under 37 CFR 1.137(b) was unexecuted; however, the petition was granted in error in a Decision mailed February 15, 2005. A corrected Decision dismissing the November 23, 2004 petition was mailed July 22, 2005. This petition was filed to correct the error in the November 23, 2004 petition.

27 MAY 2003

#3

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James N. Kallis
Brooks & Kushman P.C.
1000 Town Center, 22nd Floor
Southfield, MI 48075

In re Application of FÖLDES	:	
U.S. Application No.: 10/363,118	:	DECISION ON PETITION
Int. Application No.: PCT/HU01/00081	:	
Int. Filing Date: 18 July 2001	:	UNDER 37 CFR 1.137(b)
Priority Date: 31 July 2000	:	
Attorney Docket No.: SBGK0104PUSA	:	
For: DERMATOLOGICAL METHOD AND DEVICE	:	

This is in response to applicant's "Petition for Revival of a Patent Application Abandoned Unintentionally Under 37 C.F.R. § 1.137(b)" filed 28 February 2003.

BACKGROUND

On 18 July 2001, applicant filed international application PCT/HU01/00081, which claimed priority of an earlier Hungary application filed 31 July 2000. A copy of the international application was communicated to the USPTO from the International Bureau on 07 February 2002. A Demand for international preliminary examination, in which the United States was elected, was filed on 26 February 2002, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 31 January 2003.

International application PCT/HU01/00081 became abandoned as to the United States for failure to timely pay the basic national fee.

On 28 February 2003, applicant filed the present petition. The petition states that it is accompanied by a proper response under 35 U.S.C. 371, the petition fee set forth in 37 CFR 1.17(m), and a statement that abandonment of the application was unintentional.

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), applicant has provided the required reply under 35 U.S.C. 371.

With regard to item (2), applicant has provided the required petition fee.

With regard to item (3), the petition states, "The entire delay in filing the U.S. National Phase of the PCT application until the filing of this petition was unintentional." This statement is interpreted as a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. If this is an incorrect interpretation in view of the rules, petitioner is required to provide a statement to that effect.

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.137(b) is GRANTED.

This application has an international filing date of 18 July 2001 and a date under 35 U.S.C. 371(c) of 28 February 2003.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 703-308-6614
Facsimile: 703-308-6459

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PEARNE & GORDON LLP
1801 EAST 9TH STREET
SUITE 1200
CLEVELAND, OH 44114-3108

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SEP 25 2006

OFFICE OF PETITIONS

In re Patent No. 6,984,392	:	
Issued: January 10, 2006	:	
Application No.: 10/363,120	:	ON PETITION
Filed: June 10, 2003	:	
Attorney Docket No: 1548-002US1	:	

This is a regarding the "Notification of Change of Small Entity of Small Entity Status" filed May 22, 2006, which will be treated as a petition under 37 CFR 1.28(c).

The petition is **GRANTED.**

By the instant petition, petitioner informs the USPTO that the inventive entity is not eligible for small status. The loss of small entity status is acknowledged and noted in the application file.

The application file will be directed to the Files Repository.

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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JUN 17 2008

OFFICE OF PETITIONS

FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK NY 10112

In re Patent No. 7,279,310 : DECISION ON APPLICATION FOR
Issued: October 9, 2007 : PATENT TERM ADJUSTMENT
Application No. 10/363,145 : and NOTICE OF INTENT TO
Filed: September 12, 2003 : ISSUE CERTIFICATE OF
Dkt. No.: 00766.000070 : CORRECTION

This is a decision on the "PETITION FOR CORRECTED PATENT TERM ADJUSTMENT," filed October 9, 2007. This matter is being properly treated as an application for patent term adjustment under 37 CFR 1.705(d).

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

The above-identified application matured into U.S. Patent No. 7,279,310 on October 9, 2007. The instant request for reconsideration was timely filed in accordance with 37 C.F.R. § 1.705(d). The patent issued with a PTA of 392 days. Patentees argue that the adjustment correct adjustment at the time of issuance is 495 days.

Patentees argue that the adjustment of 495 days was improperly reduced 103 days in connection with the submission of a copy of a declaration on June 29, 2007. Patentees argue that the original declaration was submitted September 12, 2003, but that at the time of issuance, the Office was unable to locate the declaration. The copy of the declaration submitted June 29, 2007 was submitted at the request of the Office.

A review of the record reveals that the declaration was submitted September 12, 2003, as argued by patentees. A review of the application file wrapper leads to the conclusion that at the time of issuance of the patent, the Office for reasons unknown was unable to locate the original declaration and did request a copy of the declaration from applicants. In view thereof, the submission of a copy of the declaration on June 29, 2007 will not in this instance be deemed a failure to engage in reasonable efforts to conclude prosecution.

Accordingly, at the time of issuance, the application was entitled to a patent term adjustment of 495 days as argued by patentees.

The required application fee of $200.00 has been received.

This application file will be forwarded to the Certificate of Corrections branch for issuance of a certificate of correction to indicate that the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 495 days.

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

Kery Fries

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

Enclosure: Draft Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

DRAFT

CERTIFICATE OF CORRECTION

PATENT	:	7,279,310 B2
DATED	:	October 9, 2007
INVENTOR(S)	:	Narimatsu, 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 392 days

Delete the phrase "by 392 days" and insert – by 495 days--

Day : Monday
Date: 6/16/2008

PALM INTRANET

Time: 15:23:44

PTA Calculations for Application: 10/363145			
Application Filing Date:	09/12/2003	PTO Delay (PTO):	495
Issue Date of Patent:	10/09/2007	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	103
Post-Issue Petitions:	0	Total PTA (days):	495
PTO Delay Adjustment:	103		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
67	06/16/2008	ADJUSTMENT OF PTA CALCULATION BY PTO	103		
61.5	09/19/2007	PTA 36 MONTHS			
61	10/09/2007	PATENT ISSUE DATE USED IN PTA CALCULATION			
60	08/09/2007	EXPORT TO FINAL DATA CAPTURE			
59	08/08/2007	DISPATCH TO FDC			
58	08/08/2007	APPLICATION IS CONSIDERED READY FOR ISSUE			
57	08/03/2007	ISSUE FEE PAYMENT VERIFIED			
56	08/03/2007	ISSUE FEE PAYMENT RECEIVED			
55	07/18/2007	FINISHED INITIAL DATA CAPTURE			
54	06/29/2007	SUPPLEMENTAL PAPERS - OATH OR DECLARATION		103	
53	07/02/2007	WORKFLOW - QUERY REQUEST - FINISH			
52	06/29/2007	TC RETURN TO PUBS			
51	05/23/2007	SEQUENCE FORWARDED TO PUBS ON TAPE			
50	05/18/2007	PUBS CASE REMAND TO TC			
49	05/24/2007	WORKFLOW - QUERY REQUEST - BEGIN			
48	05/23/2007	RECEIPT INTO PUBS			
47	05/17/2007	RECEIPT INTO PUBS			
46	05/11/2007	EXPORT TO INITIAL DATA CAPTURE			
43	05/04/2007	MAIL NOTICE OF ALLOWANCE			
42	05/04/2007	MAIL EXAMINER'S AMENDMENT			
41	05/02/2007	ISSUE REVISION COMPLETED			
40	05/02/2007	DOCUMENT VERIFICATION			
39	05/02/2007	EXAMINER'S AMENDMENT COMMUNICATION			
		NOTICE OF ALLOWANCE DATA VERIFICATION			

38	05/02/2007	COMPLETED			
37	04/30/2007	NOTICE OF ALLOWABILITY			
36	03/02/2007	DATE FORWARDED TO EXAMINER			
35	02/16/2007	AMENDMENT AFTER FINAL REJECTION			
34	11/17/2006	MAIL FINAL REJECTION (PTOL - 326)			
33	11/13/2006	FINAL REJECTION			
32	08/24/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
31	08/24/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	29
30	08/31/2006	DATE FORWARDED TO EXAMINER			
29	08/24/2006	RESPONSE AFTER NON-FINAL ACTION			
28	05/25/2006	MAIL NON-FINAL REJECTION			
27	05/23/2006	NON-FINAL REJECTION			
26	04/20/2006	DATE FORWARDED TO EXAMINER			
25	04/14/2006	RESPONSE TO ELECTION / RESTRICTION FILED			
24	03/22/2006	MAIL RESTRICTION REQUIREMENT	495		-1
23	03/20/2006	REQUIREMENT FOR RESTRICTION / ELECTION			
22	03/16/2006	CASE DOCKETED TO EXAMINER IN GAU			
21	12/14/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
20	10/08/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
19	10/08/2004	CASE DOCKETED TO EXAMINER IN GAU			
18	05/06/2004	NEW OR ADDITIONAL DRAWING FILED			
16	03/06/2004	CLEARED BY OIPE CSR			
15	09/12/2003	371 COMPLETION DATE			
14	01/09/2004	APPLICATION DISPATCHED FROM OIPE			
13	01/09/2004	NOTICE OF DO/EO ACCEPTANCE MAILED			
12	11/19/2003	ADDITIONAL APPLICATION FILING FEES			
11	11/19/2003	A SET OF SYMBOLS AND PROCEDURES, PROVIDED TO THE PTO ON A SET OF COMPUTER LISTINGS, THAT DESCRIBE IN			
10	12/22/2003	ERROR(S) IN CRF CORRECTED BY STIC			
9	11/03/2003	NOTICE OF DO/EO DEFECTIVE RESPONSE MAILED.			
8	09/12/2003	ADDITIONAL APPLICATION FILING FEES			
7	09/12/2003	A SET OF SYMBOLS AND PROCEDURES, PROVIDED TO THE PTO ON A SET OF COMPUTER LISTINGS, THAT DESCRIBE IN			

6	09/12/2003	INFORMATION DISCLOSURE STATEMENTS			
5	09/12/2003	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
4	09/12/2003	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
3	10/20/2003	CRF IS FLAWED TECHNICALLY / NOT ENTERED INTO DATABASE			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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#9

Mark D. Sweet
Finnegan, Henderson, Farabow, Garrett & Dunner, LLP
1300 I Street, NW
Washington, DC 20005

In re Application of	:	
LANG	:	
U.S. Application No.: 10/363,147	:	
PCT No.: PCT/FR01/00645	:	DECISION ON PETITION
Int. Filing Date: 05 March 2001	:	
Priority Date: 06 March 2000	:	UNDER 37 CFR 1.181
Attorney Docket No.: 05725.1096-00000	:	
For: OXIDATION DYEING COMPOSITION FOR KERATINOUS FIBRES AND DYEING METHODS FOR USING SAME	:	

This decision is in response to the applicant's "Petition Under 37 C.F.R. § 1.181" filed 30 September 2003 and supplemented by facsimile on 04 November 2003 in the United States Patent and Trademark Office (USPTO). The 04 November 2003 filing is also being treated as a petition under 37 CFR 1.181.

BACKGROUND

On 08 September 2003, applicant was mailed a communication advising applicant that a review of USPTO records found that while applicant's filing of 17 January 2003 authorized the charging of all additional fees to Deposit Account No: 06-0916, this filing was after the 06 September 2002 expiration of thirty months from the priority date for providing of the full, U.S. basic national fee.

On 24 September 2003, applicant was mailed a "NOTIFICATION OF ABANDONMENT" (Form PCT/DO/EO/909) informing applicant that the present application was abandoned as to the National stage in the United States for failure to timely provide payment of the full, U.S. basic national fee.

On 30 September 2003, applicant responded with the present petition to withdraw the holding of abandonment pursuant to 37 CFR 1.181.

DISCUSSION

I. Petition Concerning Purported Filing of 05 September 2002

The best evidence of what was actually received by the Office is a postcard receipt

containing a specific itemization of all the items being submitted. See MPEP 503. Here, applicant has provided a copy of the date-stamped postcard receipt. The postcard identifies the application by inventor and docket number. The postcard identifies the filing as the "National Stage of International Application No. PCT/FR01/00645 under 35 U.S.C. 371." Among the items listed on the receipt is "1. Check in the amount of $1710.00, 2. Transmittal Letter concerning a filing under 35 U.S.C. 371, 3. English translation of International Application No. PCT/FR01/00645, comprising 88 sheets, including 50 claims and 5. Cover page of WIPO Publication WO 01/66069." The postcard is stamped "OIPE JC174 Patent & Trademark Office SEP 05 2002." Applicant has certified that the present filing represents a "true and complete copy" of the papers originally filed 05 September 2002. Thus, it is clear that applicant filed a transmittal letter and provided payment of the full, U.S. basic national fee prior to the expiration of thirty months from the priority date and it is proper to grant applicant's petition at this time.

II. Purported Filing of 11 September 2003

As explained above, the best evidence of what was actually received by the Office is a postcard receipt containing a specific itemization of all the items being submitted. Applicant's filing of 04 November 2003 includes a copy of the date-stamped postcard receipt. The postcard identifies the application by inventor and docket number. The postcard identifies the filing as the "National Stage of International Application No. PCT/FR01/00645 under 35 U.S.C. 371." Among the items listed on the receipt is "executed French Language Declaration (4 pgs.)" Thus, it is clear that applicant filed an executed combined declaration and power of attorney on 11 September 2003. In addition, the postcard lists checks in the amount of $130.00 and $40.00. An examination of the fee record for the present application finds these payments recorded with a mail room date of 11 September 2003. For the reasons stated above, it is proper to grant applicant's petition at this time and accept the copy of the combined declaration and power of attorney filed 04 November 2003 as a substitute for the combined declaration and power of attorney originally filed 11 September 2003. Further, a review of the application file reveals that all of the requirements of 35 U.S.C. 371 for entry into the national stage in the United States have now been satisfied.

Applicant is advised that the $130.00 payment received 11 September 2003 was recorded as payment of processing fee for providing an English translation of the International Application later than thirty months from the priority date. As applicant has shown with the present filing that a English translation was provided on 05 September 2002, this payment will be credited as payment of the surcharge for providing an executed oath or declaration of the inventor later than thirty months from the priority date. While applicant has provided sufficient proof that a check in the amount of $1710.00 was provided on 05 September 2002, there is no evidence that the check was ever cashed by the USPTO, therefore as authorized these fees will be deducted from Deposit Account No.: 06-0916.

CONCLUSION

For the reasons stated above, applicant's petitions under 37 CFR 1.181 are **GRANTED**.

The "NOTIFICATION OF ABANDONMENT" (Form PCT/DO/EO/909) mailed 24 September 2003 is hereby **VACATED**.

This application is being forwarded to United States Designated/Elected Office (US/DO/EO) for further national stage processing, including according the application a 35 U.S.C. 371(c) date of **11 September 2003**.

Derek A. Putonen
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Tel: (703) 305-0130
Fax: (703) 308-6459

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FACTOR & LAKE, LTD.
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CHICAGO IL 60607

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OFFICE OF PETITIONS

In re Application of :
Grasso et al. :
Application No. 10/363,149 : DECISION ON PETITION
Filed: September 15, 2003 :
Attorney Docket No. 502 P 180 :

This is a decision on the petition under the unavoidable provisions of 37 CFR 1.137(a), filed January 16, 2009, to revive the above-identified application. In the alternative, petitioner has requested treatment under 37 CFR 1.137(b).

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

This application became abandoned for failure to timely submit the issue and publication fees, as required by the Notice of Allowance and Fee (s) Due, which was mailed October 3, 2008. The Notice of Allowance and Fee (s) Due and the Notice of Allowability 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 January 4, 2009. A Notice of Abandonment was mailed on January 26, 2009.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d). The instant petition lacks item (3).

As to item (3), the Office may revive an abandoned application if the delay in responding to the relevant outstanding office requirement is shown to the satisfaction of the Director to have been "avoidable." 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 greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business."); In re Mattullath, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 1913). In addition, decisions on revival are made on a

"case by case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). A petition to revive an application as unavoidably abandoned cannot be granted where petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay. Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2D 1130 (N.D. Ind. 1987).

A review of the written record indicates no irregularity in the mailing of the Office action, and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

1. a statement from practitioner stating that the Office action was not received by the practitioner. The statement should also describe the system used for recording an Office action received at the correspondence address of record and establish that the docketing system was sufficiently reliable;

2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and

3. a copy of the master docket for the firm docket record where the nonreceived Office action would have been entered had it been received must be attached to and referenced in the practitioner's statement. If no master docket exists, the practitioner should so state and provide other evidence such, as but not limited: to the application file jacket, incoming mail log; calendar; reminder system or individual docket record for the application in question

Petitioner has failed to meet (3). A copy of a master docket or a statement that a master docket does not exist has not been provided. On petition, petitioner has provided a copy of what appears to be a docket record specifically for the above-identified application. A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

Petition to Revive Under 37 CFR 1.137(b)

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by the required reply, the required petition fee, and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional. The filing of a petition under 37 C.F.R. § 1.137(b) cannot be intentionally delayed, and therefore, must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 C.F.R. § 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 C.F.R. § 1.137(b).

Pursuant to petitioner's request deposit 50-0545 will be charged the $1620.00 petition fee.

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

In light of the submission of the issue and publication fees as well as drawings, the application is being referred to the Office of Data Management.

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

Charlema Grant
Petitions Attorney
Office of Petitions

#3

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14 JUL 2003

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RAGUSA, Paul A.
Baker Botts L.L.P.
30 Rockefeller Plaza
New York, NY 10112 US

In re Application of	:	
ZIEGELE, Stefan et al	:	DECISION ON
Application No.: 10/363,151	:	
PCT No.: PCT/US02/23795	:	
Int. Filing Date: 25 July 2002	:	PETITION UNDER
Priority Date: 08 August 2001	:	
Attorney Docket No.: A34558-PCT-USA	:	
For: SYSTEM AND METHOD FIR CREATING ...	:	37 CFR 1.181
INFORMATION RECORDS	:	

This decision is in response to the "REQUEST FOR CORRECTION OF FILING DATE" received 01 April 2003, which is being treated as a petition under 37 CFR 1.181 requesting that the filing date of 28 February 2002 be changed to 26 February 2002 for the national stage submission for the above identified application. No fee is required for this petition.

BACKGROUND

On 26 February 2003, petitioner purportedly filed a transmittal letter for entry into the national stage in the United States which was accompanied by, *inter alia*, the requisite basic national fee as required by 35 U.S.C. 371(c)(1).

On 01 April 2003, petitioner filed the present petition accompanied by a copy of the USPTO stamped postcard. Petitioner indicates that in checking the return receipt post card for the above-referenced application, it was noted that the card was stamped by the USPTO with a filing date of February 28, 2003 and not the correct filing date of February 26, 2003. A review of the file reveals that the original "Express Mail" Label is still in the file application.

DISCUSSION

37 CFR 1.10(a) provides:

> (a) Any correspondence received by the Patent and Trademark 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.

A review of the "Express Mail" label shows that the "date-in" date is February 26, 2003, which confirms that the date of deposit as 26 February 2003 in the USPTO. In addition, a review of the application papers reveals that "Express Mail" Label No. ET346772052US was placed, *inter alia*, on the transmittal letter (PTO –1382). Accordingly, the requirements under 37 CFR 1.10(a) have been satisfied.

DECISION

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

The National Stage papers were received by the USPTO on 26 February 2003.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) to wait for commencement of national stage at the 30 month.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Telephone: (703) 308-6312
Facsimile: (703) 308-6459

Boris Milef
PCT Legal Examiner
PCT Legal Office

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WORLD EXCHANGE PLAZA
100 QUEEN STREET, SUITE 1100
OTTAWA, ONTARIO K1P 1J9
CANADA

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MAR 26 2007

OFFICE OF PETITIONS

In re Application of :
Chris Snyder et al :
Application No. 10/363,158 : DECISION ON PETITION
Filed: August 1, 2003 :
Attorney Docket No. PAT 3271W-2 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 30, 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 July 5, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed April 5, 2006. Accordingly, the date of abandonment of this application is July 6, 2006. A Notice of Abandonment was mailed on November 2, 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. Accordingly, the issue and publication fees are accepted as being unintentionally delayed.

In view of the statement under 37 CFR 1.27, this application has been accorded small entity status.

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

This application is being referred to Publishing Division for appropriate processing in accordance with this decision on petition.

Frances Hicks
Petitions Examiner
Office of Petitions

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30 NOV 2007

To: Certificate of Corrections Branch

From: Bryan Lin
PCT Legal Examiner, PCT Legal Office

Subject: Request for Certificate of Correction for Patent No. 7,215,931

This is in reply to patentee's "Request for Certificate of Correction" filed 09 October 2007.

The request should be accepted. The filing date of the PCT international application was 19 June 2001.

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

Telephone: 703-308-6614
Facsimile: 703-308-6459

13 SEP 2005

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Barry E. Bretschneider
Morrison & Foerster LLP
1650 Tysons Boulevard
Suite 300
McLean, VA 22102

In re Application of :
NAKAMURA et al. :
Application No.: 10/363,162 : DECISION ON PETITION
PCT No.: PCT/JP01/07389 :
Int. Filing Date: 28 August 2001 :
Priority Date: 05 September 2000 :
Attorney Docket No.: 544682000100 :
For: MONOMER COMPOSITION AND POLYMERS AND OPHTHALMIC LENSES IN WHICH IT IS USED

This decision in response to applicant's "Request for Withdrawal of Notification of Abandonment" filed 12 August 2005, which is being treated as a petition under 37 CFR 1.181(a). No petition fee is required.

BACKGROUND

On 28 August 2001, applicant filed international application PCT/JP01/07389 which claimed a priority date of 05 September 2000. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 14 March 2002. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee was to expire 30 months from the priority date, or at midnight on 05 March 2003.

On 05 March 2003, applicant filed a Transmittal Letter for entry into the national stage accompanied, *inter alia,* by: the requisite basic national fee; a translation of the international application, and an application data sheet.

On 15 July 2003, the United States Designated Office (DO/EO/US) mailed a Notification Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that a signed oath/declaration of the inventors in compliance with 37 CFR 1.497(a) and (b) together with a surcharge payment were required. The notification set a two-month time limit in which to respond.

On 31 May 2005, the United States Elected Office mailed a Notification of Abandonment under 37 CFR 1.495 (Form PCT/DO/EO/909) indicating that the application

was abandoned for failure to file a complete response to the Notification of Missing Requirements mailed 15 July 2003 within the time period set therein.

On 12 August 2005, applicant filed the present petition which was accompanied, among other things: a copy of the declaration and power of attorney filed 23 July 2003; post card receipt dated 23 July 2003; and a transmittal letter dated 23 July 2003.

DISCUSSION

Applicant states in their present petition that a declaration and power of attorney was received at the United States Patent and Trademark Office on 23 July 2003. A review of the present application reveals that the declaration and power of attorney filed 23 July 2003 is not located therein. Section 503 of the Manual of Patent Examining Procedure under the heading "RETURN POSTCARD" states, in part:

> "A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO."

Here, applicant has provided a copy of their date-stamped filing receipt. The receipt identifies the application by applicant, title of invention, and attorney docket number. The receipt itemizes a declaration executed by the inventor. The receipt is stamped "Rec'd. OIPE JUL 23, 2003" across its face is sufficient to indicate that the declaration and power of attorney was in fact received in the Office on 23 July 2003.

CONCLUSION

Applicant's petition under 37 CFR 1.181 is **GRANTED**.

This application will be given an international filing date of 28 August 2001 and a date of **23 July 2003** under 35 U.S.C. 371. The application is being returned to the United States Designated/Elected Office for further processing in accordance with this decision.

Anthony Smith
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MORRISON & FOERSTER
BARRY E BRETSCHNEIDER
1650 TYSONS BOULEVARD
SUITE 300
McLEAN, VA 22102

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JAN 1 4 2004

OFFICE OF PETITIONS

In re Application of :
Arnold Keller :
Application No. 10/363,164 : NOTICE
Filed: March 5, 2003 :
Attorney Docket No. 246472004400 :

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

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

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

Inquiries related to this communication should be directed to the Office of Petitions Staff at (703) 305-9285.

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

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12 JUN 2003

#3

Alfred K. Weidmann Jr.
SANTANGELO LAW OFFICES, P.C.
123 South Howes, Third Floor
Fort Collins, CO 80521

In re Application of :
MONTAGUE, James M. *et al* :
U.S. Application No.: 10/363,185 :
PCT No.: PCT/US01/27498 :
Int. Filing Date: 04 September 2001 :
Priority Date: 05 September 2000 :
Attorney Docket No.: MontagueUSNP :
For: VERSATILE PALLETIZED WORK HOLDING SYSTEM :

DECISION ON PETITION UNDER 37 CFR 1.47(a)

This is a decision on applicants' "Petition to Accord Status to the Application under 37 CFR 1.47(a)" filed with the national stage papers on 05 March 2003.

BACKGROUND

On 05 March 2003, applicants filed a transmittal letter for entry into the national stage in the United States under 35 U.S.C. 371 which was accompanied by, *inter alia*, the instant petition; the petition fee; an "Affidavit of Jim Montague Under 37 C.F.R. §1.47"("Montague Decl."); an "Affidavit of Cheryl A. Swanson Under 37 C.F.R. §1.47"("Swanson Decl."); and a declaration signed by four of the five joint inventors.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the required petition fee; (2) factual proof that the missing joint inventor cannot be found or reached after diligent effort; (3) a statement of the last known address of the missing joint inventor; (4) and an oath or declaration executed by the signing joint inventor on his behalf and on behalf of the non-signing joint inventor.

The $130.00 petition fee has been paid. This satisfies item (1) of 37 CFR 1.47(a).

Applicants burden in proving that an inventor refuses to sign pursuant to item (2) is explained in section 409.03(d) of the MPEP which states, in part:

> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the

refusal was made . . .

When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted.

In the instant petition, applicants included declarations by James M. Montague and Cheryl A. Swanson. Mr. Montague states that he "presented all application papers (including drawings) to Gary Montague at approximately 3:20 P.M. on March 5, 2003. Gary Montague, at that time, expressly refused to execute the declaration; I heard and otherwise witnessed such refusal. Gary Montague did not give a reason for his refusal to sign the declaration." Montague Decl. at ¶ 2. In addition, Ms. Swanson states that Mr. Gary Montague "expressly orally refused to execute the declaration; I heard such refusal." Swanson Decl. at ¶ 2. This evidence demonstrates that the nonsigning joint inventor was presented with a complete copy of the application and refused to join in the application. This is sufficient to satisfy item (2) of 37 CFR 1.47(a).

Concerning item (3), the last known address of the nonsigning joint inventor, Gary Montague is listed as:

1474 West Dodge Road
Clio, Michigan 48420

With regards to item (4), the 37 CFR 1.47(a) applicant has submitted a declaration signed by four of the five co-inventors on behalf of the nonsigning co-inventor. The nonsigning inventor's name, residence, post office address and citizenship are typed on this declaration as required by section 409.03(a) of the MPEP.

However, the declaration is not in compliance with 37 CFR 1.497(a) and (b). Applicants must provide a complete copy of the application signed by each of the joint inventors. In this case, pages 4 - 8 appear to be facsimile copies signed by four of the co-inventors on 05 March 2003 in Michigan. But pages 1 - 3 do not appear to match these pages. These pages are not facsimile copies. Thus, it is not clear what exactly the four inventors were signing on pages 4 - 8 of the declaration. Applicants must submit the complete declaration signed by each co-inventor.

Therefore, item (4) of 37 CFR 1.47(a) is not satisfied.

CONCLUSION

For the reason discussed above, applicants' petition under 37 CFR 1.47(a) is

DISMISSED without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." Extensions of time may be obtained under 37 CFR 1.136(a).

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
PCT Legal Office

Tel.: (703) 308-6457

03 SEP 2003

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Alfred K. Weidmann Jr.
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123 South Howes, Third Floor
Fort Collins, CO 80521

In re Application of :
MONTAGUE, James M. *et al* :
U.S. Application No.: 10/363,185 :
PCT No.: PCT/US01/27498 :
Int. Filing Date: 04 September 2001 :
Priority Date: 05 September 2000 :
Attorney Docket No.: MontagueUSNP :
For: VERSATILE PALLETIZED WORK HOLDING SYSTEM :

DECISION ON RENEWED PETITION UNDER 37 CFR 1.47(a)

This is a decision on applicants' "Renewed Petition under 37 CFR 1.47(a)" filed on 29 July 2003.

BACKGROUND

On 29 November 2002, a decision dismissing applicants' petition under 37 CFR 1.47(a) was mailed. Applicants failed to satisfy item (4) of 37 CFR 1.47(a) by providing a declaration in compliance with 37 CFR 1.497(a) and (b). Applicants were given two months to respond.

On 29 July 2003, applicants filed the instant renewed petition which was accompanied by, *inter alia*, a declaration signed by four of the five listed co-inventors.

DISCUSSION

In the original petition, applicants failed to satisfy item (4) of 37 CFR 1.47(a). Applicants had submitted a declaration signed by four of the five co-inventors on behalf of the nonsigning co-inventor. However, the declaration was deemed not in compliance with 37 CFR 1.497(a) and (b) because the declaration consisted of facsimile pages of the declaration and original pages. Thus, it was not clear what the inventors were signing. Applicants were requested to provide the complete declaration signed by each co-inventor.

In the instant renewed petition, applicants included a complete declaration signed by four of the five co-inventors on behalf of the nonsigning co-inventor. All of the inventors' names, residences, post office addresses and citizenship are typed on this declaration as required by section 409.03(a) of the MPEP, including the nonsigning inventor, Gary Montague. This declaration is also in compliance with 37 CFR 1.497(a) and (b). Therefore, item (4) of 37 CFR 1.47(a) is now satisfied.

Therefore, all the requirements of 37 CFR 1.47(a) are now complete.

CONCLUSION

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

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 04 September 2001 under 35 U.S.C. 363, and a 35 U.S.C. 371(c) date of 29 July 2003.

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the non-signing inventor at his last known address of record and will be published in the Official Gazette.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

James Thomson

James Thomson
Attorney Advisor
PCT Legal Office

Tel.: (703) 308-6457

03 SEP 2003

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Gary Montague
1474 West Dodge Road
Clio, Michigan 48420

In re Application of
MONTAGUE, James M. *et al*
U.S. Application No.: 10/363,185
PCT No.: PCT/US01/27498
Int. Filing Date: 04 September 2001
Priority Date: 05 September 2000
Attorney Docket No.: MontagueUSNP
For: VERSATILE PALLETIZED WORK HOLDING SYSTEM

Dear Mr. Montague:

You are named as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. § 116. Should a patent be granted, you will be designated as an inventor.

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

James Thomson
Attorney Advisor
PCT Legal Office

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Alfred K. Weidmann Jr.
SANTANGELO LAW OFFICES, P.C.
123 South Howes, Third Floor
Fort Collins, CO 80521

05 JAN 2004

#10

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Richard A. Nakashima
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
12400 Wilshire Blvd., Seventh Floor
Los Angeles, CA 90025-1030

In re Application of :
ARAP, Wadih *et al* :
Application No.: 10/363,205 :
PCT No.: PCT/US01/28124 :
Int. Filing Date: 07 September 2001 : **COMMUNICATION**
Priority Date: 08 September 2000 :
Attorney Docket No.: 005774.P004 :
For: BIOPANNING AND RAPID ANALYSIS :
OF SELECTIVE INTERACTIVE :
LIGANDS (BRASIL) :

This communication is in response to the declaration submitted 13 November 2003.

BACKGROUND

On 21 July 2003, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that a signed oath/declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge fee must be provided. Applicants were given two months to respond with extensions of time available pursuant to 37 CFR 1.136(a).

On 15 September 2003, applicants filed a response which included, *inter alia*, an executed declaration. The declaration listed three inventors in the above-captioned application. However, the international publication records only two inventors.

On 16 October 2003, the DO/EO/US mailed a Notification of Defective Response (Form PCT/DO/EO/916) indicating that the declaration filed 15 September 2003 does not comply with 37 CFR 1.497(a) and (b) because it identifies an inventor, Richardo J. Giordano, not listed on the international application. A one-month time limit, or the time remaining in the Form PCT/DO/EO/905, whichever was longer, was set for response.

On 13 November 2003, applicants submitted another declaration listing only the two inventors noted on the international application. No further explanation regarding the prior declaration identifying three joint inventors was provided.

DISCUSSION

Due to the contradictory information listed on the two declarations submitted in

the above-captioned application, an explanation is required under these circumstances.

CONCLUSION

Applicants must provide an explanation of the discrepancy in the number of inventors within **ONE (1) MONTH** from the mail date of this communication, or any time remaining in the Form PCT/DO/EO/905, whichever is longer.

Failure to submit an adequate reply will result in the abandonment of this application.

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

17 MAY 2004

#12

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Steven L. Highlander
FULBRIGHT & JAWORSKI
600 Congress Ave., Suite 2400
Austin, TX 78701

In re Application of :
ARAP, Wadih *et al* :
Application No.: 10/363,205 :
PCT No.: PCT/US01/28124 :
Int. Filing Date: 07 September 2001 : **DECISION**
Priority Date: 08 September 2000 :
Attorney Docket No.: 005774.P004 :
For: BIOPANNING AND RAPID ANALYSIS :
OF SELECTIVE INTERACTIVE :
LIGANDS (BRASIL) :

This is a decision on the "Petition Under 37 C.F.R. 1.497(d) to Add Inventor" filed on 18 February 2004.

BACKGROUND

On 05 January 2005, a communication was mailed informing applicants that an explanation was required due to contradictory information provided on two declarations. Applicants were given one month to respond, or any time remaining in the Form PCT/DO/EO/905 mailed 21 July 2003, whichever was longer.

On 18 February 2004, applicants filed the instant request under 37 CFR 1.497(d) which was accompanied by, *inter alia*, the $130.00 processing fee; a "Statement of Added Inventor Under 37 C.F.R, § 1.497(d)"; a "Written Consent of Assignee to Add Inventor"; a five-month extension request and fee of $1,005.00; a "Revocation and Substitute Power of Attorney Pursuant to 37 C.F.R. §§ 3.71 and 3.73(b) and Change of Correspondence Address; a copy of an assignment; a "Declaration of Wahid Arap and Renata Pasqualini" ("Decl."); a copy of the declaration filed 15 September 2003; and a copy of the declaration filed 13 November 2003.

DISCUSSION

Change of Correspondence

Applicants submitted an executed assignment for the above-captioned application granting the Board of Regents, The University of Texas System all rights, title, and interest for the United States. Applicants' request that a revocation and substitute power of attorney and change of correspondence address be made. These changes are accepted. All future correspondence will be sent to:

Steven L. Highlander
FULBRIGHT & JAWORSKI
600 Congress Ave., Suite 2400
Austin, TX 78701

Explanation Concerning Discrepancy of Inventors on Declarations

Applicants provided a declaration by Wahid Arap and Renata Pasqualini who are listed as the joint inventors in the international publication for PCT/US01/28124 ("WO 02/20822"). They explained that the first declaration filed 15 September 2003 listing three joint inventors was appropriate because they believed that "Ricardo J. Giordano is a joint inventor for the current U.S. patent application" and that "his omission from the aforementioned PCT application was in error." Decl. at ¶ 3.

The joint inventors then claimed that they "were asked to execute a second Inventors' Declaration, this time listing only our two names as inventors." Id. at ¶ 4. The believed "that the execution of this second Inventors' Declaration was necessary prior to subsequent correction by addition of the third inventor, as only two inventors were noted on the related international application PCT/US01/28124." Id.

This explanation is acceptable.

Request to Add Joint Inventor

In the instant response, applicants request to add Ricardo J. Giordano as an inventor in the above-captioned application. 37 CFR 1.497(d) applies when the inventorship in a national stage application filed under 35 U.S.C. 371 differs from that set forth in the international application (see 37 CFR 1.48(f)(1)). 37 CFR 1.497(d) states, in part:

> (d) If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, the oath or declaration must be accompanied by:
>
> (1) A statement from each person being added as an inventor . . . that any error in inventorship in the international application occurred without deceptive intention on his or her part;
>
> (2) The processing fee set forth in § 1.17(l); and
>
> (3) If an assignment has been executed by any of the

original named inventors, the written consent of the assignees.

Here, applicants filed a statement by Ricardo J. Giordano who requests to be added as an inventor in the above-captioned application. The statement declares that the omission "occurred without any deceptive intent on my part." The processing fee of $130.00 has been paid. Applicants also submitted a document titled "Written Consent of Assignee to Add Inventor" signed by Cullen M. Godfrey as the Vice Chancellor and General Counsel of the Board of Regents, The University of Texas System, consenting to the change of inventorship in the above-identified application. Mr. Godfrey declares that he has "the authority to act on behalf of the Assignee in this matter." This statement is sufficient *See* 37 CFR 3.73(b)(2)(i).

However, a review of the declaration filed 15 September 2003 shows that it is not in compliance with 37 CFR 1.497(a) and (b). Applicants submitted what appears to be, one complete declaration and one partial declaration. Applicants provided a declaration consisting of one Page 1, one Page 2, one Page 4 and two Page 3's. Applicants must submit a **complete** copy of each declaration signed by all of the joint inventors for a grantable petition under 37 CFR 1.497(d).

Therefore, all the requirements of 37 CFR 1.497(d) are complete.

CONCLUSION

Applicants' request under 37 CFR 1.497(d) to add Ricardo J. Giordano as a joint inventor in the above-captioned application 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. Applicants must provide a complete declaration in compliance with 37 CFR 1.497(a) and (b) p with any response. Extensions of time may be obtained under 37 CFR 1.136(a).

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

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#14

Steven L. Highlander
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Austin, TX 78701

In re Application of :
ARAP, Wadih *et al* :
Application No.: 10/363,205 :
PCT No.: PCT/US01/28124 :
Int. Filing Date: 07 September 2001 : **DECISION**
Priority Date: 08 September 2000 :
Attorney Docket No.: 005774.P004 :
For: BIOPANNING AND RAPID ANALYSIS :
OF SELECTIVE INTERACTIVE :
LIGANDS (BRASIL) :

This is a decision on the "Request for Reconsideration of Decision on Petition Dated May 17, 2004" filed on 15 July 2004.

BACKGROUND

On 17 May 2004, a decision dismissing applicants' petition to add Ricardo J. Giordano as a joint inventor in the above-captioned application was dismissed because the declaration was not in compliance with 37 CFR 1.497(a) and (b).

On 15 July 2004, applicants filed a renewed petition which was accompanied by, *inter alia*, an executed declaration.

DISCUSSION

Applicants original request to add Ricardo J. Giordano as an inventor in the above-captioned application filed 18 February 2004 was dismissed because the declaration previously filed 15 September 2003 was not in compliance with 37 CFR 1.497(a) and (b). Applicants submitted what appeared to be one complete declaration and one partial declaration.

In the renewed petition, applicants have provided a new declaration signed by the three joint inventors. A review of the declaration shows that it is in compliance with 37 CFR 1.497(a) and (b).

Therefore, all the requirements of 37 CFR 1.497(d) are complete.

CONCLUSION

Applicants' request under 37 CFR 1.497(d) to add Ricardo J. Giordano as a joint inventor in the above-captioned application is hereby **GRANTED**.

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 07 September 2001, under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 15 July 2004.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (703) 308-6457

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Martin D. Moynihan
PRTSI, Inc.
P. O. Box 16446
Arlington VA 22215

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SEP 17 2007

OFFICE OF PETITIONS

In re Application of :
Surazhsky, et al. :
Application No. 10/363,220 : DECISION ON PETITION
Filed: March 6, 2003 :
Attorney Docket No. 25642 :

This is a decision on the petition, filed August 6, 2007, under 37 CFR 1.181 (no fee), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the Office action of December 20, 2006, which set a three (3) month shortened statutory period for reply. A reply was due on or before March 20, 2007. The Office has no record of receiving a timely reply. A Notice of Abandonment was mailed on July 31, 2007.

Petitioners state that a reply was in fact timely filed. To support this assertion, petitioners have submitted a copy of a return postcard which acknowledges receipt by the U.S. Patent and Trademark Office (USPTO) on May 16, 2007 of a Response to Office Action dated December 20, 2006/Petition for Extension (2 months). A copy of the previously submitted reply accompanies the petition.

The response and extension of time acknowledged as having been received in the USPTO on May 16, 2007 are not of record in the application file and have not to date been located. However, MPEP 503 states that "[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO." Accordingly, it is concluded that the reply and extension of time were timely received in the USPTO but lost after receipt thereof. It is noted that a two month/$225.00 extension of time was charged to petitioners' deposit account on accounting date May 17, 2007.

In view of the above, the holding of abandonment is hereby withdrawn, the July 31, 2007 Notice of Abandonment is vacated, and the application restored to pending status.

The copy of the reply supplied with the petition will be accepted in place of the reply shown to have been received by the USPTO on May 17, 2006.

This application is being referred to Technology Center AU 2123 for appropriate action in the normal course of business on the reply received with petition.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

11 JUL 2005

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FISH & RICHARDSON PC
225 FRANKLIN ST
BOSTON MA 02110-2804

In re Application of	:	DECISION ON
Sommariva et al	:	
Application No.: 10/363,221	:	
PCT No.: PCT/DE01/02971	:	PETITION UNDER
Int. Filing Date: 03 August 2001	:	
Priority Date: 29 August 2000	:	
Attorney's Docket No.: 14219-014US1	:	37 CFR 1.181
For: CAPACITOR COMPRISING A DIELECTRIC CERAMIC LAYER CONTAINING SILVER NIOBIUM AND TANTALUM	:	

This Decision is in response to applicants' "PETITION TO WITHDRAW HOLDING OF ABANDONMENT BASED ON FAILURE TO RECEIVE OFFICE ACTION" filed on 21 June 2004, which is being treated as a petition under 37 CFR 1.181 requesting the acceptance of the executed declaration as timely filed since the Notification of Missing Requirements was not received.

BACKGROUND

On 03 August 2001, applicants filed international application PCT/DE01/02971, which claimed priority of an earlier application filed 29 August 2000. A copy of the intentional application was transmitted on 07 March 2002 to the USPTO from the International Bureau. The thirty-month (30) time period for paying the basic national fee in the United States of America expired at midnight on 29 February 2003.

On 27 February 2003, applicants filed a Transmittal Letter for entry into the national stage in the United States of America. Filed with the Transmittal Letter was, inter alia, the requisite basic national fee. No oath or declaration of the inventors accompanied the transmittal letter.

On 15 July 2003, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) which informed applicant, inter alia, that an "Oath or Declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by International application number and international filing date" must be submitted within two months from the this Notice or by 32 months from the priority date, whichever is later, in order to avoid abandon-ment of the national stage application.

On 21 June 2004, applicants filed the instant petition accompanied by, inter alia, an executed declaration, a declaration from Mr. Goodwin, and a printout of all actions due on September 15, 2003.

DISCUSSION

MPEP section 711.03(c) establishes the requirement to show nonreceipt of an Office action. It states that:

> "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).

A review of petition reveals that applicants have complied with the requirements set forth in section 711.03(c), which requires a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed for a reply date of two(2) months from the date of mailing of the Notice of Missing Requirements.

Petitioner has submitted a copy of the docket report showing all replies docketed for a date of 15 September 2003 two months from the mail date of the nonreceived Office action that was mailed by the USPTO on 15 July 2003, and the declaration from Mr. Goodwin indicating that insofar as he can determine the Notification of Missing Requirements in the above application was not received based on his checking of Fish & Richardson's computerized docketing system, manual logs for period of time from July 16, 2003 through August 15, 2003, and the docket printouts showing docketing deadlines occurring on September 15, 2004 and February 15, 2004.

Accordingly, petitioner has met the requirements under MPEP section 711.03(c) to establish nonreceipt of an Office action.

However, the declarations filed on 21 June 2004 is defective since they do not comply with 37 CFR 1.497(a)(3). A Declaration, under 37 CFR 1.497(a)(3), must identify each inventor and be complete. See MPEP § 602. In this instance, petitioner submitted a composite declaration comprising of what appears to be three sets of declarations, which two are incomplete since they are missing the first page of the declaration and only have the second page with the inventors' signature page. In this instance each composite declaration must be of two pages.

DECISION

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

A proper response to this decision is a new declaration, which must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to respond will result in the abandonment of the application. Extensions of time are available under 37 CFR 1.136(a).

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

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Telephone: (571) 272-3276
Facsimile: (571) 273-0459

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#3

12 AUG 2003

Laurence J. Hyman
Townsend and Townsend and Crew, LLP
Two Embarcadero Center
8th Floor
San Francisco, CA 94111-3834

In re Application of PASTAN et al. Serial No.: 10/363,233 PCT No.: PCT/US01/27258 Int. Filing Date: 31 August 2001 Priority Date: 01 September 2000 Attorney's Docket No.: 015280-420100US For: XAGE-1, A GENE EXPRESSED IN MULTIPLE CANCERS ANDUSES THEREOF	DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 04 March 2003 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that the "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that the basic national fee of $900 has been paid. The required petition fee of $1300 has also been paid. Thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office for further processing. The $130 surcharge for filing the oath or declaration after the thirty month period has been charged to applicant's deposit account per their authorization. The 35 U.S.C. 371 date is 04 March 2003.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (703) 306-5467

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20050208

DATE : February 8, 2005

TO SPE OF : ART UNIT

SUBJECT : Request for Certificate of Correction on Patent No.: 6,778,440 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: Hoai Ho **Art Unit** 2827

OIPE
DEC 06 2004
PATENT & TRADEMARK OFFICE

CofC

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re U.S. Patent No. **US 6,778,440 B2**)
FOURNEL ET AL.)
)
Issued: **AUGUST 17, 2004**)
)
For: **METHOD AND DEVICE FOR CHECKING A GROUP OF CELLS IN A NON-VOLATILE MEMORY CELLS**)

10/363234

REQUEST FOR CERTIFICATE OF CORRECTION OF OFFICE MISTAKE UNDER RULE 1.322(a)

Mail Stop: Patent Publications
Certificate of Corrections Branch
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Certificate
DEC 08 2004
of Correction

Sir:

In accordance with the provisions of Rule 1.322(a) of the Rules of Practice, the Patent Office is respectfully requested to correct matters in the above-identified patent in accordance with the Certificate of Correction Form PTO-1050 attached hereto.

The Patent Office is requested to issue a Certificate of Correction on the above-referenced Patent Document, and to place such a Certificate of Correction in the file, so that such will appear on any copies of the patent which are ordered in the future.

The corrections being made are of consequence to provide the proper recitation in the specification and claims. Moreover, since these errors are believed to be errors of the Patent Office, such changes should be made at no expense to

03 DEC 2004

In re Patent of
FOURNEL ET AL.
Patent No. **US 6,778,440 B2**
Issued: **AUGUST 17, 2004**

the Patentee. No new matter is added by these corrections.

Respectfully submitted,

Christopher F. Regan
Reg. No. 34,906
Allen, Dyer, Doppelt, Milbrath
& Gilchrist, P.A.
255 S. Orange Ave., Suite 1401
P. O. Box 3791
Orlando, Florida 32802
(407) 841-2330

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: COMMISSIONER FOR PATENTS, P.O. BOX 1450, ALEXANDRIA, VA 22313-1450 on this 2nd day of December, 2004.

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO.	:	US 6,778,440 B2
DATED	:	August 17, 2004
INVENTOR(S)	:	Richard Fournel, Sedjai Aitouarab

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

Cover page (54)	Delete: "MEMORY CELLS" Insert: -- MEMORY --
Column 4, Line 41	Delete: "real" Insert: -- read --
Column 5, Line 15	Delete: "checking" Insert: -- checking cells --

MAILING ADDRESS OF SENDER:
Christopher F. Regan
Allen, Dyer, Doppelt, Milbrath & Gilchrist, P.A.
255 S. Orange Avenue - Suite 1401
P.O. Box 3791
Orlando, FL 32802-3791
PHONE : (407) 841-2330

PATENT NO. US 6,778,440 B2

13 DEC 2004

10/363,234

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 6,778,440 B2
DATED : August 17, 2004
INVENTOR(S) : Richard Fournel and Sedjai Aitouarab

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

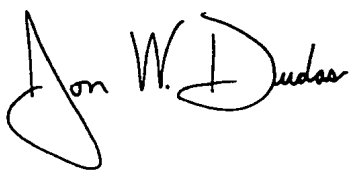
Title page,
Item [54], Title, delete "**MEMORY CELLS**" insert -- **MEMORY** --

Column 4,
Line 41, delete "real" insert -- read --

Column 5,
Line 15, delete "checking" insert -- checking cells --

Signed and Sealed this

First Day of March, 2005



JON W. DUDAS
Director of the United States Patent and Trademark Office

25 MAY 2004

#5

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Robin M. Silva
Dorsey & Whitney LLP
Four Embarcadero Center, Suite 3400
San Francisco, CA 94111-4187

In re Application of	:	
STUELPNAGEL, John	:	
Application No.: 10/363,240	:	
PCT No.: PCT/US01/27510	:	
Int. Filing Date: 05 September 2001	:	DECISION
Priority Date: 05 September 2000	:	
Attorney's Docket No.: A-68396-1	:	
For: CELLULAR ARRAYS COMPRISING ENCODED CELLS	:	

This decision responds to applicant's "Filing of Declaration" filed with the United States Patent and Trademark Office on 22 September 2003.

BACKGROUND

On 05 September 2001, applicant filed international application PCT/US01/27510, claiming a priority date of 05 September 2000. On 28 February 2002, applicant filed a demand for international preliminary examination which elected the United States, prior to nineteen months from the priority date. The deadline for entry into the national stage in the United States was midnight 05 March 2003.

On 04 March 2003, applicant filed a submission for entry into the national stage in the United States which was accompanied by the basic national fee.

On 19 June 2003, the Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) was required.

On 22 September 2003, applicant submitted a declaration executed by two inventors and the fee for a one month extension of time.

DISCUSSION

Under 37 CFR 1.41(a)(4), the inventorship of the international application entering the national stage under 35 U.S.C. 371 is that inventorship set forth in the international application, which includes any change effected under PCT Rule 92*bis*. The record does not reflect any such requests under Rule 92*bis* during the international stage.

The inventor in the international application is John Stuelpnagel. The inventors on the declaration are John Stuelpnagel and Mark Chee. As such, the declaration does not comply with 37 CFR 1.497(a)-(b).

If the international application listed an incorrect inventive entity, applicant may chose to submit a request under 37 CFR 1.497(d). Otherwise, a new declaration listing the correct inventor accompanied by an explanation is required.

The Power of Attorney By Assignee does not comply with 37 CFR 3.73. The assignments are not attached and the power of attorney does not indicate the location of the assignments.

CONCLUSION

For the above reasons, applicant's declaration does not comply with 37 CFR 1.497(a)-(b).

Applicants must supply an oath or declaration in compliance with 37 CFR 1.497(a)-(b) must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to timely file the proper response will result in abandonment of this application. Extensions of time are available under 37 CFR 1.136(a).

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

Boris Milef
PCT Legal Examiner
PCT Legal Administration

Erin M. Pender
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PCT Legal Administration

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04 MAR 2005

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Robin M. Silva
Dorsey & Whitney LLP
Four Embarcadero Center, Suite 3400
San Francisco, CA 94111-4187

In re Application of :
STUELPNAGEL, John :
Application No.: 10/363,240 :
PCT No.: PCT/US01/27510 :
Int. Filing Date: 05 September 2001 : DECISION
Priority Date: 05 September 2000 :
Attorney's Docket No.: A-68396-1 :
For: CELLULAR ARRAYS COMPRISING :
ENCODED CELLS :

This decision responds to applicant's "Petition Under 37 C.F.R. §1.497(d)," filed with the United States Patent and Trademark Office on 12 November 2004.

BACKGROUND

On 05 September 2001, applicant filed international application PCT/US01/27510, claiming a priority date of 05 September 2000. On 28 February 2002, applicant filed a demand for international preliminary examination which elected the United States, prior to nineteen months from the priority date. The deadline for entry into the national stage in the United States was midnight 05 March 2003.

On 04 March 2003, applicant filed a submission for entry into the national stage in the United States which was accompanied by the basic national fee.

On 19 June 2003, the Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) was required.

On 22 September 2003, applicant submitted a declaration executed by two inventors and the fee for a one month extension of time.

On 25 May 2004, the Office mailed "Decision" indicating that the declaration did not comply with 37 CFR 1.497(a)-(b) and if an error occurred in the inventive entity listed in the international application, a petition under 37 CFR 1.497(d) should be filed.

On 09 August 2004, applicants submitted "Response to Decision" and "Petition to Correct Inventorship Under 37 C.F.R. §1.48(c)".

On 05 October 2004, the Office mailed Notification of a Defective Response on 05 October 2004.

On 12 November 2004, applicants submitted a request under 37 CFR 1.497(d), accompanied by the fee for a four month extension of time.

DISCUSSION

The inventor in the international application is John Stuelpnagel. Applicants file this request to add Mark Chee as inventor.

A request under 37 CFR 1.497(d) requires: (1) a statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part; (2) the processing fee set forth in §1.17(i); and (3) the written consent of the assignee, if an original named inventor has executed an assignment.

Items (1), (2) and (3) have been satisfied.

CONCLUSION

For the above reasons, applicant's request under 37 CFR 1.497(d) is **GRANTED**.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application, including accordation of a 35 U.S.C. §§371(c)(1), (c)(2) and (c)(4) date of **22 September 2003**.

Erin M. Pender

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

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

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OFFICE OF PETITIONS

In re Patent No. 7,260,222 :
Issue Date: August 21, 2007 :
Application No. 10/363,266 : ON PETITION
Filed: May 14, 2003 :
Attorney Docket No. 234946US2XPCT :

This is a decision on the petition filed January 8, 2008, which is being treated as a request under 37 CFR 3.81(b)[1] to add the name of an 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 Carl Friedman at (571) 272-6842. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

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

The application is referred to Technology Center Art Unit 2134 for consideration of the Certificate of Correction in regard to the requested changes other than the name of the Assignee.

Carl Friedman
Petitions Examiner
Office of Petitions

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

12 MAY 2004

#4

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E I Du Pont De Nemours and Company
Legal Patent Records Center
4417 Lancaster Pike
Wilmington DE 19805

In re Application of	:	
REYNOLDS et al.	:	
Application No.: 10/363,279	:	DECISION
PCT No.: PCT/AU01/01106	:	
Int. Filing Date: 03 September 2001	:	
Priority Date: 01 September 2000	:	
Attorney Docket No.: AD-6956 US PCT	:	
For: IMAGE CARRYING LAMINATED MATERIAL	:	

This decision is in response to applicants' "PETITION TO REVIVE" filed 26 March 2004 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 03 September 2001, applicant filed international application PCT/AU01/01106, which claimed a priority date of 01 September 2000. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 07 March 2002. The thirty-month period for paying the basic national fee in the United States expired at midnight on 03 March 2003 (01 March 2003 being a Saturday).

On 27 February 2003, applicants filed a TRANSMITTAL LETTER (FORM PTO-1390) for entry into the national stage in the United States which was accompanied by, *inter alia*, an authorization to charge the U.S. Basic National Fee and the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date to Deposit Account No. 04-1928, and a preliminary amendment. These application papers were assigned application number **10/363,279**.

On 10 June 2003, the United States Designated/Elected Office (DO/EO/US) mailed in application number **10/363,279** a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) was required. The NOTIFICATION OF MISSING REQUIREMENTS set a two-month extendable time period.

On 26 March 2004, applicants filed a "PETITION TO REVIVE" along with a TRANSMITTAL LETTER (FORM PTO-1390) for entry into the national stage in the United States indicating that this letter is a first submission of items concerning a filing under 35 U.S.C.

371, an authorization to charge the U.S. Basic National Fee to Deposit Account No. 04-1928, a preliminary amendment, and a declaration of inventors. These application papers were assigned application number **10/490,987**.

DISCUSSION

As is evident from the above recited facts, applicant submitted what appeared to have been two sets of papers to enter the national stage for the same international application. The submission of two sets of national stage papers to enter the United States is improper.

35 U.S.C. 363 states:

> An international application designating the United States shall have the effect, from its international filing date under article 11 of the treaty, of a national application for patent regularly filed in the Patent and Trademark Office except as otherwise provided in 102(e) of this title. (emphasis added)

Further, 35 U.S.C. 371(b) states:

> (b) Subject to subsection (f) of this section, the national stage shall commence with the expiration of the applicable time limit under article 22(1) or (2), or under article 39(1)(a) of the treaty. (emphasis added)

The language of 35 U.S.C. 363 and 371 refers to the national stage of the PCT in the singular only, and thus only one (1) national stage application in the U.S. may develop from an international application. Both the Transmittal Letter filed 27 February 2003 and the Transmittal Letter filed 26 March 2004 indicate that each submission is a "**FIRST** submission of items concerning a filing under 35 U.S.C. 371" of PCT/AU01/01106 (emphasis in original). No conflicting instructions appear in the application papers. Accordingly, each submission should have been treated as a national stage application submitted under 35 U.S.C. 371. In that only one national stage of a PCT application is permitted, it would have been proper for both of the submissions to be placed in a single application and assigned a single application number. Accordingly, all of the papers filed on 27 February 2003 and 26 March 2004 have been placed in application number **10/363,279**.

A copy of the postcard receipt for the submission filed 26 March 2004 is enclosed. The postcard was stamped with application number 10/490987. This application number has been annotated to 10/363,279.

Applicant should use application number **10/363,279** in all future communications with the Patent and Trademark Office in regards to the U.S. national stage of international application PCT/AU01/01106.

Petition Under 37 CFR 1.137(b)

Application number **10/363,279** was abandoned as to the United States of America for failure to timely file a proper reply to the NOTIFICATION OF MISSING REQUIREMENTS

mailed 10 June 2003.

A petition to revive the present application under 37 CFR 1.137(b) must include:
(1) The required reply;
(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 was unintentional.

As to item (1), applicant submitted a declaration of inventors on 26 March 2004.

As to item (2), applicant submitted the petition fee on 26 March 2004.

As to item (3), the required statement has been provided.

A review of the application file reveals that, with the filing of the present petition and accompanying papers, a proper response has been submitted and all of the requirements of 37 CFR 1.137(b) for revival have been satisfied and revival is therefore appropriate.

The declaration of inventors filed 26 March 2004 is in compliance with 37 CFR 1.497(a)-(b).

Preliminary Amendments

Only the preliminary amendment filed 26 March 2004 will be entered. The preliminary amendment filed 27 February 2003 will be placed in the application file but will not be entered and will not be acted upon.

CONCLUSION

For the reasons set forth above, both the submission filed 27 February 2003 and the submission filed 26 March 2004 have been placed in the file of application number **10/363,279**.

For the reasons set forth above, the petition to revive under 37 CFR 1.137(b) is **GRANTED**.

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

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application including (1) entry of

the preliminary amendment filed 26 March 2004 and (2) according the application a 35 U.S.C. 371 (c)(1), (c)(2), and (c)(4) date of **26 March 2004**.

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (703) 308-2066
Facsimile: (703) 308-6459

Enc. Copy of postcard receipt date-stamped 26 March 2004

03 JUL 2003

#3

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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Timothy R. Wyckoff
Harness, Dickey & Pierce PLC
PO Box 8910
Reston, VA 20195

In re Application of
JOMAA, Hassan et al.
Application No.: 10/363,280
PCT Application No.: PCT/EP01/07140
International Filing Date: 23 June 2001
Priority Date: 29 June 2000
Attorney Docket No.: 40770-000137/US
For: COMBINATION PREPARATIONS OF ... PHARMACEUTICAL ACTIVE INGREDIENTS

DECISION ON

PETITION

UNDER 37 CFR 1.137(b)

Applicant's "Petition For Revival of an Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b)" filed in the United States Patent and Trademark Office on 25 February 2003 is **DISMISSED**.

BACKGROUND

On 23 June 2001, applicant filed international application PCT/EP01/07140, which claimed a priority date of 29 June 2000. A copy of the application was communicated to the United States Patent and Trademark Office from the International Bureau on 03 January 2002. A demand for international preliminary examination was filed on 10 January 2002, prior to the expiration of nineteen months from the priority date. The deadline for entry into the United States National Stage was thirty months from the priority date, that is 30 December 2002 (29 December 2002 was a Sunday).

On 25 February 2002, applicant filed a "Petition For Revival of an Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b)," accompanied by, *inter alia*, the petition fee.

DISCUSSION

A petition to revive an abandoned application under 37 CFR 1.137(b) must be filed without intentional delay from the time the application became abandoned and/or applicant first became aware of the abandoned status of the application. A petition under 37 CFR 1.137(b) must be accompanied by (1) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, (2) a proposed response, (3) the petition fee required by law (37 CFR 1.17(m)), and (4) a terminal disclaimer and fee (if the international application was filed prior to June 8, 1995).

Applicant's statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional," satisfies the requirements of 37 CFR 1.137(b)(3). A terminal disclaimer is not required as application was filed on or after 08 June 1995. The appropriate petition fee has been submitted. However, the proper reply, i.e. the basic national fee, has not been submitted.

CONCLUSION

For the reasons listed above, the petition to revive the application abandoned under 37 CFR 1.137(b) is **DISMISSED** as to the National Stage in the United States of America.

Any reconsideration on the merits of this petition must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)."

The application remains **ABANDONED**.

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

Erin M. Pender

Erin M. Pender
Attorney Advisor
PCT Legal Administration

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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10 SEP 2003

Timothy R. Wyckoff
Harness, Dickey & Pierce PLC
PO Box 8910
Reston, VA 20195

In re Application of
JOMAA, Hassan et al.
Application No.: 10/363,280
PCT Application No.: PCT/EP01/07140
International Filing Date: 23 June 2001
Priority Date: 29 June 2000
Attorney Docket No.: 40770-000137/US
For: COMBINATION PREPARATIONS OF ... PHARMACEUTICAL ACTIVE INGREDIENTS

DECISION ON

PETITION

UNDER 37 CFR 1.137(b)

This is a decision on Applicant's "Petition For Revival of an Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b)" filed in the United States Patent and Trademark Office on 25 February 2003.

BACKGROUND

On 23 June 2001, applicant filed international application PCT/EP01/07140, which claimed a priority date of 29 June 2000. A copy of the application was communicated to the United States Patent and Trademark Office from the International Bureau on 03 January 2002. A demand for international preliminary examination was filed on 10 January 2002, prior to the expiration of nineteen months from the priority date. The deadline for entry into the United States National Stage was thirty months from the priority date, that is 30 December 2002 (29 December 2002 was a Sunday).

On 25 February 2002, applicant filed a "Petition For Revival of an Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b)," accompanied by, *inter alia*, the petition fee. The papers were assigned two different application numbers.

On 12 June 2003, applicants submitted a copy of the 25 February 2003 submission accompanied by a post card receipt.

On 03 July 2003, the Office mailed Decision On Petition Under 37 CFR 1.137(b) dismissing the petition without prejudice.

DISCUSSION

The end result of an international application designating the United States is a single U.S. national stage application. The national stage entry papers of this application were separated and

assigned two different application numbers. The other application number has been cancelled. The papers and fees from the other application file have been transferred to this file, 10/363,280.

A petition to revive an abandoned application under 37 CFR 1.137(b) must be filed without intentional delay from the time the application became abandoned and/or applicant first became aware of the abandoned status of the application. A petition under 37 CFR 1.137(b) must be accompanied by (1) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, (2) a proposed response, (3) the petition fee required by law (37 CFR 1.17(m)), and (4) a terminal disclaimer and fee (if the international application was filed prior to June 8, 1995).

Items (1), (2), (3) and (4) have been satisfied.

The 12 June 2003 resubmission of paperwork was received and will be placed in file. However, as the original submission was located, not further action on it will be taken.

CONCLUSION

For the reasons listed above, the petition to revive the application abandoned under 37 CFR 1.137(b) is **GRANTED** as to the National Stage in the United States of America.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for continued processing in accordance with this decision, including the mailing of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) is required.

Erin M. Pender

Erin M. Pender
Attorney Advisor
PCT Legal Administration

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

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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON VA 20195

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DEC 19 2006

OFFICE OF PETITIONS

In re Application of :
Hassan Jomaa, et al. :
Application No. 10/363,280 : DECISION ON PETITION
Filed: October 1, 2003 : TO WITHDRAW
Attorney Docket No. 40770B-000001/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 September 22, 2006.

The request is **NOT APPROVED**.

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

The request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON VA 20195

In re Application of :
Hassan Jomaa, et al. :
Application No. 10/363,280 : DECISION ON PETITION
Filed: October 1, 2003 : TO WITHDRAW
Attorney Docket No. 10770B-000001/US : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed January 5, 2007.

The request is **NOT APPROVED**.

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

The request cannot be approved because the attorney wishes to withdraw by customer number and were not appointed by customer number.

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

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: LIZA D. HOHENSCHUTZ
CONNOLLY BOVE LODGE & HUTZ LLP
1007 NORTH ORANGE STREET
P.O. BOX 2207
WILMINGTON, DE 19899

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 09-17-09

TO SPE OF : ART UNIT 1643

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/363285 Patent No.: 7566764

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Angela Green
Certificates of Correction Branch
703-756-1541

Thank You For Your Assistance

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

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

Comments: _____

LARRY R. HELMS, PH.D.
SUPERVISORY PATENT EXAMINER

9/28/09

_____ 1643
SPE **Art Unit**

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FIVE MOORE DR.
P.O. BOX 13398
RESEARCH TRIANGLE PARK, NC 27709-3398

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OFFICE OF PETITIONS

In re Application of :
Dwight Sherod Walker :
Application No. 10/363,294 : ON PETITION
Filed: February 27, 2003 :
Attorney Docket No. PU4171USW

This is a decision on the petition filed, September 21, 2006 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on September 13, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2877 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).

01 DEC 2003

#5

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FOLEY & LARDNER
777 EAST WISCONSIN AVENUE
SUITE 3800
MILWAUKEE, WI 53202-5308

In re Application of JAEGER et al. Application No.: 10/363,303 PCT No.: PCT/EP01/09777 Int. Filing: 24 August 2001 Priority Date: 01 September 2000 Attorney Docket No.: 026032-4315 For: ADJUSTING DEVICE FOR A VEHICLE SEAT	DECISION ON PETITION UNDER 37 CFR 1.47(a)

This is a decision on applicant's "Petition under 37 CFR 1.47(a)" filed in the United States Patent and Trademark Office (USPTO) on 23 October 2003. Applicant also requests a three month extension of time, which is granted.

BACKGROUND

On 23 October 2003, in response to the 23 May 2003 Notification of Missing Requirements, applicants filed a petition under 37 CFR 1.47(a) in an attempt to satisfy the requirements of 35 U.S.C. 371(c)(4). The petition requested the acceptance of the application without the signature of inventors, Marc Clark and David Jaeger on the grounds that the nonsigning inventors cannot be found or reached to execute the application.

DISCUSSION

A petition under 37 CFR §1.47(a) must be accompanied by (1) the fee under 37 CFR §1.17(h), (2) factual proof that the non-signing joint inventor(s) refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the non-signing inventor(s), and (4) an oath or declaration by each available joint inventor on his or her own behalf and on behalf of the non-signing joint inventor(s).

Applicant satisfied Items (1), (3) and (4) above.

With respect to item (2), Applicant filed the statement of Jennifer A. W. Vandenplas, the foreign filing specialist at the law firm of Foley & Lardner, regarding the unavailability of Marc Clark and David Jaeger to sign the application. In her statement, Ms. Vandenplas states that on 21 July 2003, she requested the assistance of a German attorney in her attempt to obtain the signatures of Marc Clark and David Jaeger (Exhibit B). On 28 July 2003, the German attorney informed Ms. Vandenplas that his firm was unable to find out the new addresses of the inventors. (Exhibit C). Further, on July 30, 2003, Ms. Vandenplas contacted Johnson Controls, former employer of the nonsigning inventors, via E-mail requesting the current or last known address for Marc Clark and David Jaeger and whether they were still employed there but was unsuccessful in obtaining any information on the nonsigning inventors.

Finally, Ms. Vandenplas stated that she forwarded a complete set of application papers

(specification, claims, drawings, preliminary amendment, assignment and declaration) to both Messrs. Clark and Jaeger at their last known addresses on 18 August 2003 via Fed Ex. (Attached as Exhibits E & F). Ms. Vandenplas further states that "FedEx returned the letters to Marc Clark and David Jaeger, not having found the intended recipients. Copies of the return air bills from FedEx after not reaching the intended recipients are enclosed as Exhibits G and H."

Ms. Vandenplas, having firsthand knowledge of the facts, has provided a statement of facts along with the time and place of the inventors' unavailability and proof that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventors for their signature, but the inventors could not be found or located.

Petitioner has satisfied the requirements of 37 CFR 1.47(a). Accordingly, it is appropriate to accord the national stage application status under 37 CFR §1.47(a) at this time.

CONCLUSION

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

The U.S. Designated/Elected Office is authorized to accept the application as a 37 CFR 1.47(a) application using the declaration filed 23 October 2003 and to mail a filing receipt. The application has an international filing date of 24 August 2001 under 35 U.S.C. 363, and a date of 23 October 2003 under 35 U.S.C. 371(c).

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the non-signing inventors at their respective last known address of record. Also, a notice of the filing of this application will be published in the Official Gazette.

The application is being returned to the International Division for processing as the U.S. National Stage of the above-identified international application.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (703) 306-5467

01 DEC 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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MARC CLARK
NAGELSBAUM 10
D-51399 BURSHEID
GERMANY

In re Application of	:
JAEGER et al.	:
Serial No.: 10/363,303	:
PCT No.: PCT/EP01/09777	: DECISION ON
Int. Filing Date: 24 August 2001	:
Priority Date: 01 September 2000	: RENEWED PETITION
Attorney's Docket No.: 026032-4315	:
For: ADJUSTING DEVICE FOR A VEHICLE SEAT	: 37 CFR 1.47(a)

Dear Mr. Clark:

You are named as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. § 116. Should a patent be granted, you will be designated as an inventor.

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

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (703) 306-5467

FOLEY & LARDNER
777 EAST WISCONSIN AVENUE
SUITE 3800
MILWAUKEE, WI 53202-5308

01 DEC 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
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DAVID JAEGER
NONNENSTROMBERGSTR, 10
D-50939 KOLN
GERMANY

In re Application of	:
JAEGER et al.	:
Serial No.: 10/363,303	:
PCT No.: PCT/EP01/09777	: DECISION ON
Int. Filing Date: 24 August 2001	:
Priority Date: 01 September 2000	: RENEWED PETITION
Attorney's Docket No.: 026032-4315	:
For: ADJUSTING DEVICE FOR A VEHICLE SEAT	: 37 CFR 1.47(a)

Dear Mr. Clark:

You are named as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. § 116. Should a patent be granted, you will be designated as an inventor.

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

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (703) 306-5467

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MILWAUKEE, WI 53202-5308

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Patent Cooperation Treaty
Legal Office

Address: Assistant Commissioner for Patents
Box PCT
Washington, D.C. 20231

01 DEC 2003

OFFICIAL GAZETTE NOTICE

37 CFR 1.47 Notice by Publication

Notice is hereby given of the filing of a national stage application with a petition under 37 CFR 1.47 requesting acceptance of the application without the signature of all inventors. The petition has been granted. A notice has been sent to the last known address of the non-signing inventors. The inventor whose signature is missing (Marc Clark and David Jaeger) may join in the application by promptly filing an appropriate oath or declaration complying with 37 CFR 1.63. The international application number is PCT/EP01/09777 and was filed on 24 August 2001 in the names of David Jaeger, Nick Xiromeritis, Tamas Karacsonyi and Marc Clark for the invention entitled ADJUSTING DEVICE FOR VEHICLE SEAT. The national stage application is assigned number 10/363,303 and has a 35 U.S.C. 371(c) date of 23 October 2003.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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JAN 31 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Christer Johansson :
Application No. 10/363,304 :
Filed: March 3, 2003 :
Attorney Docket No. 1510-1043 :

This is a decision on the petition filed January 11, 2006 to withdraw the holding of abandonment under 37 CFR 1.181.

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

This application became abandoned June 7, 2005 for failure to file a timely response to the Final Office Action mailed March 5, 2005. Accordingly, a Notice of Abandonment was mailed December 15, 2005.

Petitioner claims that the Office Action mailed March 5, 2005 was never received. Petitioners have provided a copy of the docket records fo this specific application, wherein receipt of the non-Final Office Action, would have been filed, had it been received.

A review of the file reveals however that a change of correspondence address was filed March 30, 2004, for another patent application and incorrectly identified the above referenced application. As a result, the non-Final Office Action was incorrectly mailed to an address of record not that belonging to the Attorneys of Record and therefore not received by the Attorneys of Record at the address provided as the address of record. Thus, the non-Final Office Action was mailed to the wrong address and as petitioners claim, not received.

In view of the above, no petition fees are due and none have been charged.

The Notice of Abandonment is withdrawn and the file is being forwarded to Technology Center 3653 for the re-mailing of the Final Office Action originally mailed on March 5, 2005. Telephone inquiries concerning the re-mailing of the Office Action should be referred to the Technology Center. All other inquiries regarding this decision may be directed to the undersigned Petitions Attorney at (571) 272-3212.

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

21 OCT 2004

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ALEXANDRIA, VA 22313-1450
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Oblon Spivak McClelland Maier & Neustadt PC
1940 Duke Street
Alexandria, VA 22314

In re Application of	:	
ITO, Yusataka et al.	:	
Application No.: 10/363,310	:	DECISION ON
PCT No.: PCT/JP02/06893	:	
Int. Filing Date: 08 July 2002	:	PETITION
Priority Date: 09 July 2001	:	
Attorney Docket No.: 234749US90PCT	:	UNDER 37 CFR 1.181
For: CERAMIC HEATER AND CERAMIC JOINED ARTICLE	:	

This decision is in response to applicant's "Petition Under 37 C.F.R. 1.181 to Withdraw Holding of Abandonment," filed on 13 April 2004.

BACKGROUND

On 08 July 2002, applicant filed international application PCT/JP02/06893, claiming a priority date of 09 July 2001. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 23 January 2003. The deadline for entry into the national stage in the United States was thirty months from the priority date, 09 January 2004.

On 03 March 2003, applicants filed a transmittal letter for entry into the national stage in the United States, accompanied by the basic national fee.

On 29 July 2003, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) was required. The Notification set the deadline for reply as the longer of two months from the mail date of the Notification or 32 months from the priority date.

On 09 March 2004, applicants submitted an executed declaration.

On 16 March 2004, the Office mailed Notification of Abandonment (Form PCT/DO/EO/909) indicating that the extensions of time on the Notification of Missing Requirements ran out on 29 February 2004.

On 08 June 2004, applicants requested a refund of the extension of time fee charged to deposit account no.15-0030.

DISCUSSION

The applicable time period for responding the Notification of Missing Requirements was 32 months from applicants' priority date, 09 March 2004. Applicants' submission of the declaration on 09 March 2004 was timely. The Notification of Abandonment mailed 16 March 2004 issued in error.

The $2010 extension of time fee charged to deposit account no. 15-0030 in this application will be refunded.

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.181 is **GRANTED**.

The Notification of Abandonment (Form PCT/DO/EO/909) mailed 16 March 2004 is **VACATED**.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision. The date under 35 U.S.C. §§371(c)(1), (c)(2) and (c)(4) date is 09 March 2004.

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

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MAIER & NEUSTADT
1940 DUKE STREET
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DEC 28 2005

OFFICE OF PETITIONS

In re Application of :
Andreas Fischer et al :
Application No. 10/363,317 : ON PETITION
Filed: March 3, 2003 :
Attorney Docket No. 234036US0PCT :

This is a decision on the petition under 37 CFR 1.182, filed December 27, 2005, which is being treated under 37 CFR 1.313(c)(2), to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 25, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 1753 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

[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

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON, VA 20195

COPY MAILED

MAR 17 2008

In re Application of :

ANDERSSON, Per Johan et al. :
Application No. 10/363,324 : DECISION ON PETITION
Filed: August 07, 2003 : TO WITHDRAW
Attorney Docket No. **10400C-000046/US** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 26, 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 John A. Castellano on behalf of all attorneys of record who are associated with customer No. 30593. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There are no outstanding office actions at this time.

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **PER JOHAN ANDERSSON**
GRANSBACKSVAGEN 1
SE-437 41 LINDOME
SWEDEN

cc: **MR. JAMES STIPEK**
POLSINELLI, SHALTON, FLANIGAN & SUELTHAUS
700 W. 47TH STREET
SUITE 1000
KANSAS CITY, MO 64112

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 5/7/08

Paper No.: —

TO SPE OF : ART UNIT 1764

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/363337 Patent No: 2262331 B2

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

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within **7** days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within **7** days, to:

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

First Item Only

VIRGINIA TOLBERT
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

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

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

Comments: Approved- The second line sould read "Column 3" instead of "Column"

/Glenn Caldarola/ AU 1797

SPE **Art Unit**

03 MAY 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

Edward M. Kriegsman
KRIEGSMAN & KRIEGSMAN
665 Franklin Street
Framingham, MA 01702

In re Application of :
Olek, Alexander *et al* :
U.S. Application No.: 10/363,345 :
PCT No.: PCT/EP01/10074 :
Int. Filing Date: 01 September 2001 : **DECISION**
Priority Date: 01 September 2000 :
Attorney's Docket No.: 23685 :
For: METHOD FOR DETERMINING THE DEGREE : METHYLATION OF DEFINED CYTOSINES : IN GENOMIC . . . :

This is a decision on the papers titled "Petition to Withdraw Holding of Abandonment" filed 08 March 2004. No fee is required.

BACKGROUND

On 10 June 2003, the United States Designated/Elected Office (DO/EO/US) mailed a Notification to Comply With Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures (Form PCT/DO/EO/922) indicating that a computer readable form (CRF) sequence listing diskette was required. A two-month time period for response was set with extensions of time available.

On 14 July 2003, applicants filed a response which included a CRF sequence listing diskette.

On 16 December 2003, the DO/EO/US mailed a Notification of a Defective Response (Form PCT/DO/EO/916) indicating that the CRF sequence listing diskette submitted on 30 August 2002 was defective. The Raw Sequence Listing Error Report from the Scientific and Technical Information Center (STIC) indicated that a corrected diskette was required.

On 20 January 2004, applicants purportedly filed a response which included a substitute CRF sequence listing diskette and hard copy of the sequence listing. This response and substitute diskette were not located in the file.

On 09 February 2004, the DO/EO/US mailed a Notification of Defective Response Abandonment (Form PCT/DO/EO/918) because a proper response was not received within the time period set.

On 08 March 2004, applicants submitted the instant petition which was accompanied by, *inter alia*, a copy of the documents purportedly filed 20 January 2004 and a date-stamped postcard receipt for the 20 January 2004 filing and two substitute copies of the CRF sequence listing diskette purportedly filed 20 January 2004.

DISCUSSION

MPEP § 503 lists procedures to ensure receipt of any paper filed in the USPTO. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

In this case, applicants provided a copy of the date-stamped filing receipt for the documents and diskette submitted 20 January 2004. The filing receipt records that among other papers, applicants included "A Transmittal of Compact Discs Containing Sequence Listing." The filing receipt is stamped "DT04 Rec'd PCT/PTO 20 Jan 2004" across its face. The U.S. application number, attorney docket number, filing date and name of inventors were listed on the postcard receipt.

Applicants also provided copies of the CRF sequence listing diskette. The CRF sequence listing diskette was checked by the STIC and found that the sequences were good with no errors found.

Accordingly, applicants have provided *prima facie* evidence that a timely and proper response to the Form PCT/DO/EO/916 was originally received by the USPTO on 20 January 2004.

DECISION

Applicants' petition to withdraw the holding of abandonment is **GRANTED**.

The Notification of Defective Response Abandonment (Form PCT/DO/EO/918) mailed 09 February 2004 is hereby **VACATED**.

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 01 September 2001, under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 03 March 2003.

This application is being forwarded to the National Stage Processing Division of

the Office of PCT Operations for continued processing.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (703) 308-6457

28 MAY 2003

#3

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UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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Danny L. Williams
Williams, Morgan & Amerson, P.C.
10333 Richmond, Suite 1100
Houston, TX 77042

In re Application of :
TOLK, et al. :
Application No.: 10/363,347 : DECISION ON PETITION
PCT No.: PCT/US00/06879 : UNDER 37 CFR 1.137(b)
Int. Filing Date: 15 March 2000 :
Priority Date: 18 March 1999 :
Attorney Docket No.: 2026.000210 :
For: CONTACTLESS OPTICAL PROBE FOR :
USE IN SEMICONDUCTOR :
PROCESSING METROLOGY :

The petition to revive under 37 CFR 1.137(b) filed 04 March 2003 in the above-captioned application is hereby **GRANTED** as follows:

Applicants' statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that the applicants have submitted the basic national fee of $50.00 and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National Stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office (US/DO/EO) for continued processing including the issuance of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an executed oath or declaration of the inventors and payment of the applicable surcharge is required.

Derek A. Putonen
Attorney-Advisor
Office of PCT Legal Administration
Telephone: (703) 305-0130
Facsimile: (703) 308-6459

28 MAY 2003

OIPE JC112 MAR 28 2004 PATENT & TRADEMARK OFFICE

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JUN 03 2003
WILLIAMS, MORGAN & AMERSO

2026.000200

Danny L. Williams
Williams, Morgan & Amerson, P.C.
10333 Richmond, Suite 1100
Houston, TX 77042

In re Application of
TOLK, et al.
Application No.: 10/363,347
PCT No.: PCT/US00/06879
Int. Filing Date: 15 March 2000
Priority Date: 18 March 1999
Attorney Docket No.: 2026.000210
For: CONTACTLESS OPTICAL PROBE FOR USE IN SEMICONDUCTOR PROCESSING METROLOGY

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

CHECKED BY:
1ST CHECK
2ND CHECK

The petition to revive under 37 CFR 1.137(b) filed 04 March 2003 in the above-captioned application is hereby **GRANTED** as follows:

Applicants' statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that the applicants have submitted the basic national fee of $50.00 and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National Stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office (US/DO/EO) for continued processing including the issuance of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an executed oath or declaration of the inventors and payment of the applicable surcharge is required.

Derek A. Putonen
Attorney-Advisor
Office of PCT Legal Administration
Telephone: (703) 305-0130
Facsimile: (703) 308-6459

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WILLIAMS, MORGAN & AMERSON, P.C.

10333 RICHMOND, STE. 1100, HOUSTON, TEXAS 77042

(713) 934-7000 FAX: (713) 934-7011

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Mark W. Sincell, Ph.D.*

*Patent Agent

Writer's Direct Dial
(713) 934-4060

COPY

File: 2026.000210/VU9940

February 27, 2003

CERTIFICATE OF MAILING UNDER C.F.R. § 1.8	
DATE OF DEPOSIT:	February 27, 2003

I hereby certify that this paper or fee is being deposited with the United States Postal Service with sufficient postage as "FIRST CLASS MAIL" addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231.

Sharon V. Dart

Signature

PCT Legal Staff
Box PCT
Assistant Commissioner for Patents
Washington, DC 20231

RE: *U.S. Patent Application Entitled: CONTACTLESS OPTICAL PROBE FOR USE IN SEMICONDUCTOR PROCESSING METROLOGY*
Norman H. Tolk, et al.
2026.000210/VU9940)

Sir:

Transmitted herewith for filing are:

(1) Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 35 C.F.R. § 1.137(b);
(2) Check in the amount of $650.00;
(3) Transmittal Letter to the United States Designated/Elected Office (DO/EO/US) Concerning a Filing Under 35 U.S.C. § 371; and
(4) Check in the amount of $683.00.

All correspondence, notices, official letters and other communications should be directed to Danny L. Williams, Williams, Morgan & Amerson, P.C., 10333 Richmond, Suite 1100, Houston, TX 77042, and all telephone calls should be directed to Danny L. Williams at (713) 934-4060.

In the event the checks attached are insufficient, the Assistant Commissioner is authorized to withdraw funds from Williams, Morgan & Amerson, P.C. Deposit Account No. 50-0786/2026.000210.

Please date stamp and return the enclosed postcards to evidence receipt of these materials.

Respectfully submitted,

Date: February 27, 2003

Danny L. Williams, Reg. No. 31,892
WILLIAMS, MORGAN & AMERSON, P.C.
10333 Richmond, Suite 1100
Houston, Texas 77042
(713) 934-7000
(713) 934-7011 (facsimile)
ATTORNEY FOR APPLICANT(S)

23720
PATENT TRADEMARK OFFICE

DLW/sh
Enclosures
cc: Mr. Bill Eads, Esq.

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MAR 2 9 2004
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PTO/SB/64/PCT (01-03)
Approved for use through 12/31/2003. OMB 0651-0021
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN INTERNATIONAL APPLICATION FOR PATENT DESIGNATING THE U.S. ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)	Docket Number (Optional) 2026.000210

First named inventor: NORMAN H. TOLK

International (PCT) Application No.: PCT/US00/06879 U.S. Application No.: (if known)

Filed: 15 MARCH 2000 (15.03.00)

Title: CONTACTLESS OPTICAL PROBE FOR USE IN SEMICONDUCTOR PROCESSING METROLOGY

Attention: PCT Legal Staff
Box PCT
Assistant Commissioner for Patents
Washington, D.C. 20231

The above-identified application became abandoned as to the United States because the fees and documents required by 35 U.S.C. 371(c) were not filed prior to the expiration of the time set in 37 CFR 1.494(b) or (c) or 1.495(b) or (c) as applicable). The date of abandonment is the day after the date on which the 35 U.S.C. 371(c) requirements were due. See 37 CFR 1.494(g) or 1.495(h).

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:

(1) Petition fee

(2) Proper Reply

(3) Terminal disclaimer with disclaimer fee—required for all international applications having an international filing date before June 8, 1995; and

(4) Statement that the entire delay was unintentional.

1. Petition fee

☒ Small entity - fee $ 650.00 (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity - fee $_____(37 CFR 1.17(m))

2. Proper reply

A. The proper reply (the missing 35 U.S.C. 371(c) requirement(s) in the form of: Transmittal Letter to the United States Designated/Elected Office (DO/EO/US) Concerning a Filing Under 35 U.S.C. 371 (identify type of reply):

☐ has been filed previously on _____.

☒ is enclosed herewith.

Burden Hour Statement: This form is estimated to take 1.0 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

3. Terminal disclaimer with disclaimer fee

☒ Since this international application has an international filing date on or after June 8, 1995, no terminal disclaimer is required.

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

4. Statement. The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional.

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

Date: February 27, 2003

Danny L. Williams, Reg. No. 31,892
WILLIAMS, MORGAN & AMERSON, P.C.
10333 Richmond, Suite 1100
Houston, Texas 77042
(713) 934-7000
(713) 934-7011 (facsimile)
ATTORNEY FOR APPLICANT(S)

Enclosures:
- ☐ Response
- ☒ Fee Payment
- ☐ Terminal Disclaimer Form
- ☒ Transmittal Letter to the United States Designated/Elected Office (DO/EO/US) Concerning a Filing Under 35 U.S.C. 371
- ☒ Postcard

OIPE JC112 MAR 29 2004 PATENT & TRADEMARK OFFICE

FORM PTO-1390 (REV. 12-2001) U.S. DEPARTMENT OF COMMERCE PATENT AND TRADEMARK OFFICE

TRANSMITTAL LETTER TO THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US) CONCERNING A FILING UNDER 35 U.S.C. 371

ATTORNEY'S DOCKET NUMBER: 2026.000210

U.S. APPLICATION NO. (If known, see 37 CFR 1.5):

INTERNATIONAL APPLICATION NO.	INTERNATIONAL FILING DATE	PRIORITY DATE CLAIMED
PCT/US00/06879	15 March 2000 (15.03.00)	18 March 1999 (18.03.99)

TITLE OF INVENTION
CONTACTLESS OPTICAL PROBE FOR USE IN SEMICONDUCTOR PROCESSING METROLOGY

APPLICANT(S) FOR DO/EO/US
VANDERBILT UNIVERSITY

Applicant herewith submits to the United States Designated/Elected Office (DO/EO/US) the following items and other information:

1. ☒ This is a FIRST submission of items concerning a filing under 35 U.S.C. 371.
2. ☐ This is a SECOND or SUBSEQUENT submission of items concerning a filing under 35 U.S.C. 371.
3. ☐ This is an express request to begin national examination procedures (35 U.S.C. 371(f)). The submission must include items (5), (6), (9) and (21) indicated below.
4. ☒ The US has been elected by the expiration of 19 months from the priority date (Article 31).
5. ☒ A copy of the International Application as filed (35 U.S.C. 371(c)(2))
   a. ☐ is attached hereto (required only if not communicated by the International Bureau).
   b. ☐ has been communicated by the International Bureau.
   c. ☒ is not required, as the application was filed in the United States Receiving Office (RO/US).
6. ☐ An English language translation of the International Application as filed (35 U.S.C. 371(c)(2))
   a. ☐ is attached hereto.
   b. ☐ has been previously submitted under 35 U.S.C. 154(d)(4).
7. ☐ Amendments to the claims of the International Application under PCT Article 19 (35 U.S.C. 371(c)(3))
   a. ☐ are attached hereto (required only if not communicated by the International Bureau).
   b. ☐ have been communicated by the International Bureau.
   c. ☐ have not been made; however, the time limit for making such amendments has NOT expired.
   d. ☐ have not been made and will not be made.
8. ☐ An English language translation of the amendments to the claims under PCT Article 19 (35 U.S.C. 371(c)(3)).
9. ☐ An oath or declaration of the inventor(s) (35 U.S.C. 371(c)(4)).
10. ☐ An English language translation of the annexes of the International Preliminary Examination Report under PCT Article 36 (35 U.S.C. 371(c)(5)).

Items 11 to 20 below concern document(s) or information included:

11. ☐ An Information Disclosure Statement under 37 CFR 1.97 and 1.98.
12. ☐ An assignment document for recording. A separate cover sheet in compliance with 37 CFR 3.28 and 3.31 is included.
13. ☐ A FIRST preliminary amendment.
14. ☐ A SECOND or SUBSEQUENT preliminary amendment.
15. ☐ A substitute specification.
16. ☐ A change of power of attorney and/or address letter.
17. ☐ A computer-readable form of the sequence listing in accordance with PCT Rule 13ter.2 and 35 U.S.C. 1.821-1.825.
18. ☐ A second copy of the published international application under 35 U.S.C. 154(d)(4).
19. ☐ A second copy of the English language translation of the international application under 35 U.S.C. 154(d)(4).
20. ☒ Other items or information: Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 35 C.F.R. § 1.137(b), Check for Petition ($650.00), Postcard.

U.S. APPLICATION NO. (if known, see 37 CFR 1.5)	INTERNATIONAL APPLICATION NO. PCT/US00/06879	ATTORNEY'S DOCKET NUMBER 2026.000210

21. ☒ The following fees are submitted:

BASIC NATIONAL FEE (37 CFR 1.492(a)(1)-(5)):

Neither international preliminary examination fee (37 CFR 1.482) nor international search fee (37 CFR 1.445(a)(2)) paid to USPTO and International Search Report not prepared by the EPO or JPO **$1060.00**

International preliminary examination fee (37 CFR 1.482) not paid to USPTO but International Search Report prepared by the EPO or JPO **$900.00**

International preliminary examination fee (37 CFR 1.482) not paid to USPTO but international search fee (37 CFR 1.445(a)(2)) paid to USPTO **$750.00**

International preliminary examination fee (37 CFR 1.482) paid to USPTO but all claims did not satisfy provision of PCT Article 33(1)-(4) **$720.00**

International preliminary examination fee (37 CFR 1.482) paid to USPTO and all claims satisfied provisions of PCT Article 33(1)-(4) **$100.00**

CALCULATIONS PTO USE ONLY

ENTER APPROPRIATE BASIC FEE AMOUNT =	**$ 100.00**	
Surcharge of **$130.00** for furnishing the oath or declaration later than 30 months from the earliest claimed priority date (37 CFR 1.492(e)).	**$**	

CLAIMS	NUMBER FILED		NUMBER EXTRA	RATE		
Total claims	81	-20 =	61	X $ 18.00	**$ 1,098.00**	
Independent claims	5	- 3 =	3	X $ 84.00	**$ 168.00**	
MULTIPLE DEPENDENT CLAIM(S) (if applicable)				+ $280.00		
TOTAL OF ABOVE CALCULATIONS =					**$ 1,366.00**	
☒ Applicant claims small entity status. See 37 35 C.F.R. § 1.27. The fees indicated above are reduced by ½.				+		
SUBTOTAL =					**$ 683.00**	
Processing fee of **$130.00** for furnishing the English translation later than 20 30 months from the earliest claimed priority date (37 CFR 1.492(f)).					**$**	
TOTAL NATIONAL FEE =					**$**	
Fee for recording the enclosed assignment (37 CFR 1.21(h)). The assignment must be accompanied by an appropriate cover sheet (37 CFR 3.28, 3.31). **$40.00** per property				+	**$**	
TOTAL FEES ENCLOSED =					**$ 683.00**	
					Amount to be refunded:	**$**
					charged	**$**

a. ☒ A check in the amount of $ 683.00 to cover the above fees is enclosed.

b. ☐ Please charge my Deposit Account No. 50-0786/_____ in the amount of $_____ to cover the above fees. A duplicate copy of this sheet is enclosed.

c. ☒ The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. 50-0786/2026.000210. A duplicate copy of this sheet is enclosed.

d. ☐ Fees are to be charged to a credit card. **WARNING:** Information on this form may become public. **Credit card information should not be included on this form.** Provide credit card information and authorization on PTO-2038.

NOTE: Where an appropriate time limit under 37 CFR 1.494 or 1.495 has not been met, a petition to revive (37 CFR 1.137(a) or (b)) must be filed and granted to restore the application to pending status.

SEND ALL CORRESPONDENCE TO:

WILLIAMS, MORGAN & AMERSON, P.C.
10333 Richmond, Suite 1100
Houston, Texas 77042
(713) 934-4060

SIGNATURE

Danny L. Williams
NAME

31,892
REGISTRATION NUMBER

23720
PATENT TRADEMARK OFFICE

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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LADAS & PARRY LLP
224 SOUTH MICHIGAN AVENUE
SUITE 1600
CHICAGO IL 60604

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FEB 27 2008

OFFICE OF PETITIONS

In re Application of
Masayuki Sugawara
Application No. 10/363,364
Filed: February 28, 2003
Attorney Docket No.: **CU-6004**

ON PETITION

This is a decision on the petition filed October 4, 2007 under 37 CFR 1.137(b), [1] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed September 22, 2005. A shortened statutory period of three months was set for replying to the non-Final Office Action. No extensions of time having been requested, this application became abandoned December 23, 2005. Accordingly, a Notice of Abandonment was mailed August 23, 2006.

This matter is being referred to Technology Center 2871 for appropriate action on the amendment filed October 4, 2007.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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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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REED SMITH
599 LEXINGTON AVENUE, 29TH FLOOR
NEW YORK, NY 10022-7650

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OFFICE OF PETITIONS

In re Application of :
Pinchas Shalev et al :DECISION GRANTING PETITION
Application No. 10/363,365 :UNDER 37 CFR 1.313(c)(1)
Filed: February 28, 2003 :
Attorney Docket No. 299/03350 :

This is a decision on the petition, filed December 27, 2004, under 37 CFR 1.313(c)(1) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

Petitioner requests withdrawal of the instant application from issue due to the fact that claims 55-58 are not patentable under 35 U.S.C. § 112, second paragraph, for lack of antecedent basis. The petition is accompanied by an amendment which is stated to now provide the proper antecedent basis.

The petition complies with 37 CFR 1.313(c)(1). Accordingly, the above-identified application is withdrawn from issue due to unpatentability of one or more claims. See 37 CFR 1.313(c)(1).

Petitioner is advised that the issue fee paid on August 30, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The matter is being referred to Technology Center AU 3742.

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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CONNOLLY BOVE LODGE & HUTZ, LLP
P O BOX 2207
WILMINGTON, DE 19899

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JUN 23 2008

In re Application of :

CARSON, Daniel D. et al. :
Application No. 10/363,368 : DECISION ON PETITION
Filed: August 04, 2003 : TO WITHDRAW
Attorney Docket No. **UD01-02 (131*240)** : 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 31, 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 Ashley I. Pezzner 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 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.

There are no outstanding Office actions at this time.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **DANIEL D. CARSON**
812 WESTRIDGE DRIVE
HOCKESSIN, DE 19707

cc: **RATNERPRESTIA**
P.O. BOX 1596
WILMINGTON, DE 19899

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DANIEL D. CARSON
812 WESTRIDGE DRIVE
HOCKESSIN DE 19707

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DEC 3 1 2008

OFFICE OF PETITIONS

In re Application of :
Carson, et al. :
Application No.: 10/363,368 : ON PETITION
Filing Date: August 4, 2003 :
Attorney Docket No. :

This is a decision on the "Petition under 37 CFR 1.47" filed December 5, 2008.

The petition is **dismissed**.

The subject application was filed on August 4, 2003. A declaration under 37 CFR 1.63 was filed om August 4, 2003, signed by all named inventors appointing the firm of Connolly Bove Lodge & Hutz, LLP. Connolly Bove Lodge & Hutz has since withdrawn its representation on this application. The instant petition was filed on December 5, 2008. Petitioner requests status under 37 CFR 1.47(a) for this application because one of inventor Timpi is now deceased, yet no assignment was executed by inventor Timpi and heir to Mr. Timpi's estate has allegedly refused to cooperate with the prosecution of the application. Petitioner is seeking to appoint new counsel of record for this application without the signature of inventor Timpi or his heir.

Petitioner is advised that status under 37 CFR 1.47is only appropriate when applicant is unable to secure the signature of a named inventor on the initial declaration under 37 CFR 1.63. Once the declaration under 37 CFR 1.63 is executed, the provisions of 37 CFR 1.47 no longer apply. Relief cannot be granted under 37 CFR 1.47.

Neither is it appropriate to grant the request under 37 CFR 1.183. Suspension of the rules under 37 CFR 1.183 may be granted in an "extraordinary situation, when justice requires." The facts presented on the record do not adequately establish an extraordinary situation. Petitioner has not sufficiently established any special circumstances of equities that would require suspension of the rules in the interests of justice. It is noted that responses to any actions may be filed by a registered attorney in a representative capacity. It is noted that the attorney will not receive the responsive Office action, however. It is not appropriate to grant a petition under 37 CFR 1.183 at this juncture because the petitioner has another remedy available. Petitioner may file a new application in which the desired entity is appointed as attorney or record with a petition under 37 CFR 1.47(a) for inventor Timpi. The petition is dismissed, accordingly.

The application file is being directed to Technology Center 1647 for further processing including review of the response filed December 4, 2208, which is signed by Joy Mulholland of Ratnerprestia in a representative capacity.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

cc:
Ratnerprestia
PO Box 1569
Wilmington, DE 19899

United States Patent and Trademark Office

02 OCT 2006

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CONNOLLY BOVE LODGE & HUTZ, LLP
P O BOX 2207
WILMINGTON DE 19899

In re Application of
Farach-Carson et al.
Application No.: 10/363,376
PCT No.: PCT/US01/26640
Int. Filing Date: 27 August 2001
Priority Date: 31 August 2000
Attorney Docket No.: UD01-01(131*239)
For: Bioactive Peptide For Cell Adhesion

DECISION

This is in response to the "...Petition To Consider CRF Of The Sequence Listing Received On The U.S. Postal Service Date Of Deposit" filed on 17 April 2006.

BACKGROUND

This international application was filed on 27 August 2001, claimed an earlier priority date of 31 August 2000, and designated the U.S. The 30 month time period for paying the basic national fee in the United States expired at midnight on 28 February 2003. Applicant filed *inter alia* the basic national fee on 27 February 2003.

On 03 June 2003, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring the submission of an executed oath or declaration and a surcharge under 37 CFR 1.492(e) then in effect.

On 07 July 2003, applicants responded with an executed declaration and surcharge.

On 17 March 2006, a Notification of Defective Response (Form PCT/DO/EO/916) was mailed to applicants, requiring an initial computer readable form (CRF) of the sequence listing and a statement that the content of the CRF is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter. The Notification also noted "Total additional fees required for this application is $-168 for a Small Entity" and "a previous payment of $168 will be applied to the additional fees indicated above."

On 10 May 2006, a Notice of Acceptance (Form PCT/DO/EO/903) was mailed to applicants, indicating the date of this application under 35 U.S.C. 371(c)(1), (2) and (4) to be **07 July 2003**.

DISCUSSION

Review of the record reveals that a technically acceptable computer readable form (CRF) of the sequence listing was entered into the appropriate USPTO database on 21 April 2006. Petitioner argues that

> The computer readable form of the sequence listing was provided with the new application filing papers on August 27, 2001 by Express Mail with all the

> appropriate documentation to satisfy the provisions of 37 CFR 1.10. Therefore, the computer readable form of the sequence listing should be considered filed with the USPTO on August 27, 2001 and no additional fees should be due.

In response, it is respectfully noted that 37 CFR 1.821(e) specifically provides that

> If the computer readable form of a new application is to be identical with the computer readable form of another application of the applicant on file in the Office, reference may be made to the other application and computer readable form in lieu of filing a duplicate computer readable form in the new application if the computer readable form in the other application was compliant with all of the requirements of this subpart. The new application must be accompanied by a letter making such reference to the other application and computer readable form, both of which shall be completely identified. In the new application, applicant must also request the use of the compliant computer readable "Sequence Listing" that is already on file for the other application and must state that the paper or compact disc copy of the "Sequence Listing" in the new application is identical to the computer readable copy filed for the other application.

Here, applicant did not specifically request that a CRF already on file in the international application (or any other application) be used in the instant national stage. However, as noted above, the application is currently deemed to include an acceptable CRF.

With regard to the issue of the $168 in fees referenced on the Form PCT/DO/EO/916 mailed on 17 March 2006, the $168.00 in question was applied to the fee for independent claims in excess of three. To the extent that the Form PCT/DO/EO/916 may have implied that additional fees were due in connection with the submission with the CRF, such an implication was improper. In addition, the Form PCT/DO/EO/916 was improper in that it imposed a new requirement not previously the subject of a Notification of Missing Requirements (Form PCT/DO/EO/905); accordingly, the Notification of Defective Response (Form PCT/DO/EO/916) mailed on 17 March 2006 is hereby **VACATED**.

It is noted that the declaration filed on 07 July 2003 is defective because it appears to have been assembled from signature sheets signed from each inventor Counsel's attention is drawn to MPEP 201.03, which explains in part that

> **While each inventor need not execute the same declaration, each oath or declaration executed must contain a complete listing of all inventors so as to clearly indicate what each inventor believes to be the appropriate inventive entity. Where individual declarations are executed, they must be submitted as individual declarations rather than combined into one declaration.**

Accordingly, the previously submitted composite declaration is not acceptable for purposes of compliance with 37 CFR 1.497(a) and (b). Therefore, the Notice of Acceptance mailed on 10 May 2006 is hereby **WITHDRAWN**.

CONCLUSION

The petition is **GRANTED**, to the extent noted above.

This application is being forwarded to the National Stage Processing Branch for the preparation and mailing of a Notification of Missing Requirements (Form PCT/DO/EO/905)

requiring the submission of an oath or declaration compliant with 37 CFR 1.497(a) and (b), as well as a statement that the content of the CRF is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter.

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

Boris Milef
PCT Legal Examiner
Office of PCT Legal Administration

George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459

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HOGAN & HARTSON L.L.P.
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LOS ANGELES CA 90067

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OFFICE OF PETITIONS

In re Application of :
MORI, et al. :
Application No. 10/363,381 : DECISION GRANTING PETITION
Filed: November 9, 2001 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **89197.0002** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed July 1, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on June 6, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

There is no indication that the person signing the petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, the signature of Mr. Troy M. Schmelzer appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts in accordance with 37 CFR 1.34(a).

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 1793 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Monica A. Graves
Petitions Examiner
Office of Petitions

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

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OFFICE OF PETITIONS

In re Application of :
Tetsuya Yamashita et al :
Application No. 10/363,388 : ON PETITION
Filed: March 3, 2003 :
Attorney Docket No. 115221 :

This is a decision on the petition, filed July 14, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 22, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 1754 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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In re Application of
Tetsuya Yamashita et al
Application No. 10/363,388
Filed: March 3, 2003
Attorney Docket No. 115221

ON PETITION

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JUL 29 2005
TC 1700

This is a decision on the petition, filed July 14, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on December 22, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 1754 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

...S, L.L.P.
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JUL 19 2005

[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.

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GOODRICH & ROSATI
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OFFICE OF PETITIONS

In re Patent No. 7,112,671	:	
Mody et al.	:	
Issue Date: September 26, 2006	:	DECISION ON APPLICATION
Application No. 10/363,401	:	FOR
Filed: February 26, 2003	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 4201.01 US	:	

This is in response to the "REQUEST FOR RECONSIDERATION OF THE PATENT TERM ADJUSTMENT AND APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR §1.703(b)(1)," filed November 10, 2006, requesting reconsideration of the initial determination of patent term adjustment under 35 U.S.C. 154(b) of 439 days.

The application for patent term adjustment under § 1.705(b) is **DISMISSED AS UNTIMELY FILED**.

Patentee is given **TWO (2) MONTHS** to respond to this decision. No extensions of time will be granted under § 1.136(a).

35 U.S.C. 154(b) provides for patent term adjustment for examination delay. Pursuant to 35 U.S.C. 154(b)(3)(B) and implementing regulation 37 C.F.R. § 1.705, an applicant shall receive an initial determination of patent term adjustment with the mailing of the Notice of Allowance and shall be given one opportunity to request reconsideration of that determination by way of filing of an application for patent term adjustment prior to the payment of the issue fee.

On April 18, 2006, the Office mailed a 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 439 days. This determination was based in part on the period of adjustment of 441 days associated with the Office's mailing of a first Office action on July 13, 2005. PALM records indicate that the issue fee payment was received in the Office on May 24, 2006. No filing of an application for patent term adjustment preceded the payment of the issue fee. The period for filing an application for patent term adjustment requesting reconsideration of the initial determination of patent term adjustment at the time of mailing of the notice of allowance ended May 24, 2006. Accordingly, it is appropriate to dismiss this petition as untimely filed under 1.705(b).

Consideration under 1.705(d) is not appropriate. As stated in MPEP 2730, 1.703(d) provides that:

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

The issues raised should have been timely raised on application for patent term adjustment under § 1.705(b).

Submission of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fees are required.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

20 FEB 2004

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Daniel A. Monaco
Drinker, Biddle & Reath, LLP
One Logan Square
18th and Cherry
Philadelphia, PA 19103

In re Application of	:	
HARRISON et al.	:	
Application No.: 10/363,419	:	DECISION ON REQUEST
PCT No.: PCT/GB01/03953	:	UNDER 37 CFR 1.497(d)
Int. Filing Date: 04 September 2001	:	
Priority Date: 04 September 2000	:	
Attorney Docket No.: 08830-0183US1	:	
For: SURFACTANT		

This decision is in response to "Request for Inventorship Change under 37 CFR 1.497(d)" filed 10 December 2003. The $130 petition fee under 37 CFR 1.17(i) has been submitted.

BACKGROUND

On 04 September 2001, applicants filed the above-captioned international application, which claimed a priority date of 04 September 2000 and designated the United States. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 14 March 2002. The international application named John Harrison, Richard Chalkley, and Mark Zwinderman as applicant/inventors. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 03 March 2003.

On 03 March 2003, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by, *inter alia*, a basic national fee of $900; a copy of the international application; and a preliminary amendment.

On 18 June 2003, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring an oath or declaration in compliance with 37 CFR 1.497 and the surcharge fee required under 37 CFR 1.492(e). The notification set a two-month time limit in which to respond.

On 10 December 2003, applicants filed "Request for Inventorship Change under 37 CFR 1.497(d)" which included a declaration and petition for a four-month extension of time.

DISCUSSION

In the instant case, the international application named John Harrison, Richard Chalkley, and Mark Zwinderman as applicants/inventors. Applicants request to delete Richard Chalkey as an applicant/inventor. In order to correct an error in naming the inventor(s) made during the international stage in the national stage, a submission under 37 CFR 1.497(d) is required.

A submission under 37 CFR 1.497(d) to correct an error in naming inventorship requires: (1) a statement from each person being added or deleted as an inventor that the error in inventorship occurred without any deceptive intention on his or her part; (2) an oath or declaration by the actual inventor(s) as required by 37 CFR 1.497(a); (3) the fee set forth in 37 CFR 1.17(i); and (4) if an assignment has been executed by any of the original named inventors, the written consent of the assignee in compliance with 37 CFR 3.73(b).

Items (1), (2), (3), and (4) have been satisfied.

CONCLUSION

The request under 37 CFR 1.497(d) is **GRANTED**.

A review of the application papers reveals that applicants have completed all the requirements of 35 U.S.C. 371 for entry into the national stage. This application will be given an international application filing date of 04 September 2001 and a date of **10 December 2003** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

The application is being returned to the United States Designated/Elected Office for further processing in accordance with this decision.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Telephone: (703) 308-6314
Facsimile: (703) 308-6459

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#3

Browdy and Neimark PLLC
624 Ninth Street, NW, Suite 300
Washington, DC 20001

In re Application of	
BERG, Kurt Frimann	
Application No.: 10/363,430	
PCT No.: PCT/DK01/00515	DECISION
Int. Filing Date: 23 July 2001	
Priority Date: 28 July 2000	ON PETITION UNDER
Docket No.: BERG2	
For: METHOD OF TREATING SYMPTOMS OF COMMON COLD, ALLERGIC RHINITIS AND INFECTIONS RELATING TO THE RESPIRATORY TRACT	37 CFR 1.137(b)

Applicant's "Petition to Revive Under 37 CFR 1.137 (b)," filed in the above-captioned application on 28 February 2003 is **GRANTED**.

Applicant states that "the entire delay in filing the required reply from the due date (January 28, 2003) for reply until the filing of a grantable petition pursuant to this paragraph was unintentional," which complies with 37 CFR 1.137(b)(3). The appropriate national fee and petition fee have been submitted. A terminal disclaimer is not required as the application was filed on or after 08 June 1995. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

A signed oath or declaration has not yet been submitted.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for continued processing in accordance with this decision, including the mailing of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) is required.

Erin M. Pender

Erin M. Pender
Attorney Advisor
PCT Legal Administration

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

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

Mail Date: 04/20/2010

Applicant	: Yasuhiro Mino	: DECISION ON REQUEST FOR
Patent Number	: 7612121	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/363,447	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/26/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **918** 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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Carella, Byrne, Bain, Gilfillan,
Cecchi, Stewart & Olstein
6 Becker Farm Road
Roseland, NJ 07068

In re Application of :
Jurgens et al. :
US Application No.: 10/363,459 :
PCT Application No.: PCT/EP01/009876 :
International Filing Date: 28 August 2001 :
Priority Date: 29 August 2000 :
Attorney's Docket No.: 76775.4 :
For: METHOD FOR MELTING A POLYMER GRANULATE AND MELT ELEMENT :

DECISION ON PETITION FOR REVIVAL UNDER 37 CFR 1.137(b)

This decision is in response to the petition under 37 CFR 1.137(b), filed on 3 March 2003.

On 28 August 2001, Applicants filed international application PCT/EP01/009876, which claimed priority of an earlier application filed on 29 August 2000. The 30-month period for entering the national stage ended on 28 February 2003.

The basic national fee required by 37 CFR 1.495(b) was not submitted on or before 28 February 2003. Accordingly, the international application became abandoned as to the United States on 1 March 2003.

The instant petition is accompanied by:

(1) A transmittal letter for entry into the national stage in the United States under 35 U.S.C. 371;

(2) The $1,060 basic national fee and the $1,300 petition fee;

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

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

The petition is thus **GRANTED**.

In addition, while the petition encloses a "Declaration for Utility or Design Application" that is not executed, a declaration executed by both of the named inventors was submitted on 8 May 2003. A review of the supplemental declaration reveals that it complies with the requirements of 37 CFR 1.497(a) and (b). Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 28 August 2001 under 35 U.S.C. 363, and a 35 U.S.C. 371 date of **8 May 2003.**

Finally, receipt with the petition of an English translation of the international application is acknowledged. Since the international application was filed in German, and its English translation was not filed on or before 28 February 2003 as required by 35 U.S.C. 371(c)(2), the $130 late filing fee for the translation has been charged to Deposit Account No. 03-0678 as authorized in the petition. 37 CFR 1.492(f).

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

Boris Milef
PCT Legal Examiner
PCT Legal Office

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

20 JUN 2003

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#4

The Firm of Karl F. Ross P.C.
5676 Riverdale Ave. Box 900
Riverdale (Bronx), NY 10471

In re Application of PELSTER	:	
U.S. Application No.: 10/363,478	:	
PCT Application No.: PCT/EP01/07798	:	DECISION
Int. Filing Date: 06 July 2001	:	
Priority Date Claimed: 07 July 2000	:	
Attorney Docket No.: 22473	:	
For: DEVICE FOR DEFROSTING AND/OR HEATING UP	:	

This is in response to applicant's "Petition for Revival Under 37 CFR 1.137(b)" filed 28 February 2003.

BACKGROUND

On 06 July 2001, applicant filed international application PCT/EP01/07798, which claimed priority of an earlier Germany application filed 07 July 2000. A copy of the international application was communicated to the USPTO from the International Bureau on 17 January 2002. A Demand for international preliminary examination, in which the United States was elected, was filed on 22 January 2002, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired on 07 January 2003.

International application PCT/EP01/07798 became abandoned as to the United States for failure to timely file the requisite basic national fee under 35 U.S.C. 371.

On 28 February 2003, applicant filed the present petition under 37 CFR 1.137(b).

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable

petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), applicant has provided the required reply under 35 U.S.C. 371.

With regard to item (2), applicant has provided the required petition fee.

With regard to item (3), the petition states, "The entire delay in filing the required reply in the form of this national stage application was unintentional." This statement is interpreted as a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. If this is an incorrect interpretation in view of the rules, petitioner is required to provide a statement to that effect.

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.137(b) is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 06 July 2001, and a date under 35 U.S.C. 371(c) of 28 February 2003.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 703-308-6614
Facsimile: 703-308-6459

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T. N

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Neil P. Ferraro
Wolf, Greenfield & Sacks, P.C.
Federal Reserve Plaza
600 Atlantic Ave.
Boston, MA 02210-2211

AUG - 2 2005

In re Application of:
Cho
Serial No.: 10/363,492
Filed: September 22, 2003
Attorney Docket No.: **C1148.70000US00**

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 May 25, 2005.

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

The request meets all the above stated requirements. The request was signed by Neil P. Ferraro, on behalf of himself and all the attorneys/agents of record.

The request is **APPROVED**. There are no attorneys of record at this time.

All future communications from the Office will be directed to the inventor, Myoung-ho Cho, at the below address, until otherwise notified by applicant.

Inquiries related to this decision should be directed to Edward Westin at (571) 272-1638.

for Edward Westin, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: Myoung-ho Cho
205-153, Cheongyang 2-dong
Dongdaemon-ku
Seoul, South Korea 130-012

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#6

Evan R. Witt
MADSON & METCALF
15 West South Temple, Suite 900
Salt Lake City, Utah 84101

In re Application of	:	
Douglas	:	**DECISION ON**
Application No.: 10/363,496	:	
PCT No.: PCT/GB01/03888	:	**PETITION**
International Filing Date: 31 August 2001	:	
Priority Date: 02 September 2000	:	**UNDER 37 CFR 1.42**
For: SELF-PROPELLED SCREENING	:	
APPARATUS	:	**AND 37 CFR 1.137(b)**

This is a decision on the "PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)," filed 25 March 2004. With the petition under 37 CFR 1.137(b), applicant has submitted papers which have been treated as a request under 37 CFR 1.42.

Background

On 28 February 2003, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*,: the requisite basic national fee as required by 35 U.S.C. 371(c)(1), a copy of the international application as required by 35 U.S.C. 371(c)(2). An oath as required by 35 U.S.C. 371(c)(4) was not filed.

On 05 June 2003, the United States Designated/Elected Office (DO/EO) mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an Oath or Declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by International application number and international filing date, a surcharge for providing the oath or declaration later than 30 months from the priority date must be submitted within two months of the date of the Notification or by 32 months from the priority date, whichever is later, late oath or declaration Surcharge. The period for response expired 05 August 2003, two months from the mail date of the Notification.

On 05 August 2003, the application became abandoned because applicant failed to respond to the Notification within the time period provided.

On 25 March 2004, applicant filed the petition to revive under 37 CFR 1.137(b), an

appropriate petition fee with respect to the petition to revive, a declaration under 37 CFR 1.63, and a late Surcharge payment as required by the NOTIFICATION OF MISSING REQUIREMENTS. The Declaration was signed by Kathleen Douglas as a legal heir of the deceased inventor, Patrick Joseph Douglas.

Discussion

In the case of the death of the inventor, the legal representative (executor, administator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent." 37 CFR 1.42. However, the declaration must be filed by all of the heirs. MPEP 409.01(a).

A declaration is required to identify the country of citizenship of the inventor (37 CFR 1.63 (a)(3)) and the residence of the inventor (37 CFR 1.63(c)(1)).

While the Decaration submitted by applicant identifies the signor as being a legal heir of the deceased inventor, it does not describe the signor as being the sole legal heir. In addition, the declaration also fails to state the country of citizenship of the deceased inventor, and the residence of the deceased inventor.

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

Applicants' statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional," satisfies the requirements of 37 CFR 1.137(b)(3). Applicant's payment of the $665 satisfies the the requirement for a petition fee. A terminal disclaimer is not required because the application was filed on or after 08 June 1995. Applicants' submission of a proper reply, however, is not satisfied.

Conclusion

The above application and papers have been reviewed. The declaration 25 March 2004 1994 is not in compliance with 37 CFR 1.42.

For the reasons above, the request under 37 CFR 1.42 is **Dismissed**.

Also for the reasons above, the petition to revive under 37 CFR 1.137(b) is **Dismissed**.

The application remains **Abandoned**.

If reconsideration on the merits of this decision is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)". No additional petition fee is required.

Leonard Smith
PCT Legal Examiner
PCT Legal Administration

Jim Foster
Detailee
PCT Legal Administration

Telephone: (703) 308-1315
Facsimile: (703) 308-6459

30 JUL 2004

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Evan R. Witt
MADSON & METCALF
15 West South Temple, Suite 900
Salt Lake City, Utah 84101

In re Application of	:	
Patrick Joseph DOUGLAS	:	DECISION ON RENEWED
Application No.: 10/363,496	:	
PCT No.: PCT/GB01/03888	:	PETITION
International Filing Date: 31 August 2001	:	
Priority Date: 02 September 2000	:	UNDER 37 CFR 1.42
For: SELF-PROPELLED SCREENING	:	
APPARATUS	:	AND 37 CFR 1.137(b)

This is a decision on applicant's "RENEWED PETITION UNDER 37 CFR 1.42 AND 37 CFR 1.137(b)," filed 12 July 2004.

Background

On 31 August 2001, applicant filed international application PCT/GB01/03888. The international application claims a priority date of 02 September 2000 and designates the United States. Accordingly, the deadline for payment of the basic national for National Stage in the United States was thirty months from the priority date, that is 03 March 2003 (02 March 2003 was a Sunday). A copy of the international application was communicated from the International Bureau to the United States Patent and Trademark Office on 07 March 2002.

On 28 February 2003, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*, the requisite basic national fee as required by 35 U.S.C. 371(c)(1).

On 05 June 2003, the United States Designated/Elected Office (DO/EO) mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an Oath or Declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by International application number and international filing date, and a Surcharge for providing the oath or declaration later than 30 months from the priority date must be submitted within two months of the date of the Notification or by 32 months from the priority date, whichever is later. The period for response expired 05 August 2003, two months from the mail date of the Notification.

On 05 August 2003, the application became abandoned because applicant failed to

respond to the Notification within the time period provided.

On 25 March 2004, applicant filed a petition to revive the application under 37 CFR 1.137(b) accompanied by, *inter alia*,: an appropriate petition fee with respect to the petition to revive, a declaration of the inventor under 37 CFR 1.63, and a late Surcharge payment for filing the declaration later than thirty months from the priority date. The declaration was signed by Kathleen Douglas as a legal heir of the deceased inventor, Patrick Joseph Douglas and therefore was treated as a request under 37 CFR 1.42.

On 19 May 2004, the declaration was not accepted under 37 CFR 1.42 since the signing legal heir was not identified in the declaration of the inventor as being the sole legal heir for the deceased inventor and since the citizenship and the residence of the deceased inventor were not provided. Accordingly, the petition under 37 CFR 1.137(b) was also dismissed since the requirement for a proper reply had not been satisfied.

On 12 July 2004, applicant filed the instant renewed petition, accompanied by a new declaration of the inventor, signed by Kathleen Douglas as the legal representative of the deceased inventor, Patrick Joseph Douglas.

Discussion

"In the case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent." 37 CFR 1.42.

The newly submitted declaration identifies the signor of the declaration as being the deceased inventor's legal representative. Additionally, the new declaration overcomes the defect of the previously filed declaration by identifying the citizenship of the deceased inventor (37 CFR 1.497(a)) as well as the citizenship, residence and mailing address of the legal representative (37 CFR 1.497(b)).

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

Applicants' previously submitted statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional," satisfies the requirements of 37 CFR 1.137(b)(3). Applicant's previous payment of the $665 satisfies the requirement for a petition fee. A terminal disclaimer is

not required because the application was filed on or after 08 June 1995. The newly submitted declaration of the inventor is accepted under 37 CFR 1.42 and satisfies the requirement for a proper reply.

Conclusion

The above application and papers have been reviewed. The declaration filed 12 July 2004 has been found in compliance with 37 CFR 1.42.

The declaration filed 12 July 2004 under 37 CFR 1.42 is **ACCEPTED**.

For the above reasons, the renewed petition to revive under 37 CFR 1.137(b) is **GRANTED**.

Applicants have satisfied the filing requirements under 35 U.S.C. 371.

The application has an international filing date of 31 August 2001 under 35 U.S.C. 363 and a date of 12 July 2004 under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4). The application is being returned to the National Stage Processing Division of the Office of PCT Operations for continued processing.

Boris Milef
PCT Legal Examiner
PCT Legal Administration

Jim Foster
Detailee
PCT Legal Administration

Telephone: (703) 308-1315
Facsimile: (703) 308-6459

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ATTN: PATENT ADMINISTRATOR
135 COMMONWEALTH DRIVE
MENLO PARK, CA 94025-1105

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FEB 11 2009

OFFICE OF PETITIONS

In re Application of :
Dick Boecker et al :
Application No. 10/363,507 : ON PETITION
Filed: November 26, 2003 :
Attorney Docket No. PEL-2667.US

This is a decision on the petition, filed February 10, 2009 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 22, 2008 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 3736 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

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

COPY MAILED

MAR 16 2009

OFFICE OF PETITIONS

In re Application of
Freeman, et al.
Application No. 10/363,507
Filed: November 26, 2003
Attorney Docket No. PEL-2667.US

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.182, filed December 18, 2008, to change the order of the names of the inventors.

The petition is **GRANTED**.

Office records have been corrected to reflect the change in the order of the named inventors. A corrected Filing Receipt, which sets forth the desired order of the named inventors, accompanies this decision on petition.

The required fee is $400.00. Petitioners have submitted $130.00. The remaining fee due, $270.00, has been charged to petitioner's deposit account.

This application is being referred to Technology Center AU 3769 for examination in due course.

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

/ALESIA M. BROWN/
Alesia M. Brown
Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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United States Patent and Trademark Office
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/363,507	11/26/2003	3769	1150	PEL-2667.US	12	1

CONFIRMATION NO. 3815

CORRECTED FILING RECEIPT

77845
Goodwin Procter LLP
Attn: Patent Administrator
135 Commonwealth Drive
Menlo Park, CA 94025-1105

OC00000034977615

Date Mailed: 03/12/2009

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

Applicant(s)

Dominique M. Freeman, La Honda, CA;
Ganapati Mauze, Sunnyvale, CA;
Dick Boecker, Palo Alto, CA;

Power of Attorney: The patent practitioners associated with Customer Number 77845

Domestic Priority data as claimed by applicant

This application is a 371 of PCT/US02/19059 06/12/2002

Foreign Applications

If Required, Foreign Filing License Granted: 03/12/2009

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/363,507**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

INTEGRATED BLOOD SAMPLING ANALYSIS SYSTEM WITH MULTI-USE SAMPLING MODULE

Preliminary Class

600

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED

SEP 2 8 2009

OFFICE OF PETITIONS

In re Patent No. 7,537,571
Issued: May 26, 2009
Application No. 10/363,507
Filed: November 26, 2003
Attorney Docket No. PEL-2667

: DECISION ON APPLICATION
: FOR PATENT TERM ADJUSTMENT

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)" filed June 25, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from five hundred thirty-seven (537) days to nine hundred eighty-two (982) days.

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

On May 26, 2009, the above-identified application matured into US Patent No. 7,537,571 with a patent term adjustment of 537 days. This request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent. See 37 CFR 1.705(d).

The Office acknowledges submission of the authorization of the $200.00 fee set forth in 37 CFR 1.18(e) and have charged the required fees to deposit account no. 50-4634. No additional fees are required.

Patentees request recalculation of the patent term adjustment based on the decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees assert that in view of the decision in Wyeth, they are entitled to a total patent term adjustment of 982 days, which includes an additional 540 days of patent term adjustment due to exceeding three year pendency.

The 540-day period is calculated based on the national stage having been commenced under 35 U.S.C. 371(f) on November 26, 2003, and a request for continued examination (RCE) having been filed on May 19, 2008. The filing of an RCE cuts-off the applicants' ability to accumulate any additional patent term adjustment against the three-year pendency provision, but does not otherwise affect patent term adjustment. 37 CFR § 1.703(b)(1).

Patentees assert that in addition to this 540-day period, they are entitled to a period of adjustment due to examination delay, pursuant to 37 CFR 1.702(a), of 764 days.

Under 37 CFR 1.703(f), patentees are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR 1.702 reduced by the period of time equal to the period of time during which patentees failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR 1.704. In other words, it is the period of Office delay reduced by the period of applicant delay. Patentees do not dispute the period of reduction of 227 days for applicant delay.

Patentees agree that the total period of Office delay is the sum of the period of Three Years Delay terminated by the filing of a RCE (540 days) and the period of Examination Delay (764 days) to the extent that these periods of delay are not overlapping. Patentees contend that the period of delay for Examination delay and the Three Year Delay period overlap by 95 days.

Accordingly, patentees submit that the total period of Office Delay is 1209 days, which is the sum of the period of Three Year Delay (540 days) and the period of Examination Delay (764 days), reduced by the period of overlap (95 days). As such, patentees assert entitlement to a patent term adjustment of 982 days (540 +764 reduced by 95 overlap -227 for applicant delay).

The Office agrees that as of the filing of the RCE o n May 19, 2008, the application was pending three years and 540 days after its commencement date.[1] The Office agrees that the action detailed above was not taken within the specified time frame, and thus, a reduction of 764 days for examination delay was entered. At issue is whether patentees should accrue 540 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as 764 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that 540 days overlap. Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

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[1]Patentees are advised that the instant application was filed under 35 U.S.C. 371.

37 CFR 1.702(b) indicates that a patent is entitled to patent term adjustment if, subject to a number of limitations, the Office fails to issue a patent within three years of the actual filing date of the application (35 U.S.C. 154(b)(1)(B)). In the case of an international application, the phrase "actual filing date of the application in the United States" means the date the national stage commenced under 35 U.S.C. 371(b) or (f). See Changes to Implement Patent Term Adjustment Under Twenty-Year Patent Term, 65 FR 56366, 56382-84, (Sept. 18, 2000), 1239 Off. Gaz. Pat. Office 14, 28-30 (Oct. 3, 2000).

> to the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

Likewise, 35 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in § 1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

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

The current wording of § 1.703(f) was revised in response to the misinterpretation of this provision by a number of Patentees. The rule was slightly revised to more closely track the corresponding language of 35 U.S.C. 154(b)(2)(A). The relevant portion differs only to the extent that the statute refers back to provisions of the statute whereas the rule refers back to sections of the rule. This was not a substantive change to the rule nor did it reflect a change of the Office's interpretation of 35 U.S.C. 154(b)(2)(A).

As stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding § 1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed. The grounds specified in these sections cover the A) guarantee of prompt Patent and Trademark Office responses, B) guarantee of no more than 3-year application pendency, and C) guarantee or adjustments for delays due to interference, secrecy orders and appeals. A section by section analysis of 35 U.S.C. 154(b)(2)(A) specifically provides that:

> Section 4402 imposes limitations on restoration of term. In general, pursuant to [35 U.S.C.] 154(b)(2)(A)-(C), total adjustments granted for restorations under [35 U.S.C. 154](b)(1) are reduced as follows: (1) To the extent that there are multiple grounds for extending the term of a patent that may exist simultaneously (e.g., delay due to a secrecy order under [35 U.S.C.] 181 and administrative delay under [35 U.S.C.] 154(b)(1)(A)), the term should not be extended for each ground of delay but only for the actual number of days that the issuance of a patent was delayed; See 145 Cong. Rec. S14,718[2]

As such, the period for over three-year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed overlap with the actual dates in the periods for failure of the Office to take action within specified time frames.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the entire period from the commencement of the national stage under 35 U.S.C. 371(f), November 26, 2003, to the filing of the RCE on May 19, 2008, (excluding any other periods under 35 U.S.C. 154(b)(1)(B)(i)-(iii)). Prior to the filing of the RCE, 764 days of patent term

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[2] The AIPA is title IV of the Intellectual Property and Communications Omnibus Reform Act of 1999 (S. 1948), which was incorporated and enacted as law as part of Pub. L. 106-113. The Conference Report for H.R. 3194, 106th Cong. 1st Sess. (1999), which resulted in Pub. L. 106-113, does not contain any discussion (other than the incorporated language) of S. 1948. A section-by-section analysis of S. 1948, however, was printed in the Congressional Record at the request of Senator Lott, See 145 Cong. Rec. S14,708-26 (1999)(daily ed. Nov. 17, 1999).

adjustment were accorded for the Office failing to respond within a specified time frame during the pendency of the application. 540 days accrued for failure to issue the patent within three years of the national stage commencement. All of the 540 days for Office delay in issuing the patent overlap with the 764 days of Examination delay. During that time, the issuance of the patent was delayed by 764 days, not 764 + 540 days. The Office took 14 months and 764 days to issue a first Office action. Otherwise, the Office took all actions set forth in 37 CFR 1.702(a) within the prescribed time frames. Nonetheless, given the initial 764 days of Office delay and the time allowed within the time frames for processing and examination, as of the date the RCE was filed, the application was pending three years and 540 days. The Office did not delay 764 days and then an additional 540 days. The period of delay of 540 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 764 days attributable to grounds specified in § 1.702(a)(1). Entry of both periods is not warranted. Thus, 764 days is determined to be the actual number of days that the issuance of the patent was delayed.

Accordingly, at issuance, the Office properly entered no additional days of patent term adjustment for the Office taking in excess of three years to issue the patent.

In view thereof, no adjustment to the patent term will be made.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

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

In re Application of	:	
Dominique M. Freeman et al.	:	
Application No. 10/363,508	:	ON PETITION
Filed: September 3, 2003	:	
Attorney Docket No. 38187-2666.US	:	

This is a decision on the petition under 37 CFR 1.182, filed January 28, 2008, to change the order of the names of the inventors.

The petition is **DISMISSED**.

The petition can not be granted at this time because the correct fee was not paid for this petition. A petition fee in the amount of $130.00 was submitted with this petition. The fee was paid under fees set forth in 37 CFR 1.17(h). The correct fee should have been paid under fees set forth in 37 CFR 1.17(f) in the amount of $400.00. The $130.00 fee was credited back to Deposit Account 081641. The Office was not able to charge the $400.00 petition from this deposit account. The account was inactive.

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: Paul Davis
Heller Ehrman, LLP
275 Middlefield Road
Menlo Park, CA 94025

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Attn: Patent Administrator
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OFFICE OF PETITIONS

In re Application of :
Dominique M. Freeman et al. :
Application No. 10/363,508 : ON PETITION
Filed: September 3, 2003 :
Attorney Docket No. 38187-2666.US :

This is a decision on the renewed petition under 37 CFR 1.182, filed February 25, 2010, to change the name of one of the inventors.

The petition is **DISMISSED**.

The issue fee in this application was paid on December 3, 2009. Effective May 29, 2000, the Office changed the practice by clarifying that a **proper** amendment under 37 CFR 1.312 (after allowance) must be filed prior to or with payment of the issue fee, and eliminated 37 CFR 1.12(b). Since the renewed petition to change the order of inventors' names is an amendment to the application, and amendments are not permitted after the payment of the issue fee, a petition under 37 CFR 1.182 to change the order of the inventors' names cannot be granted.

As authorized, the $400 fee for the petition under 37 CFR 1.182 has been assessed to petitioner's deposit account.

Telephone inquiries related to this decision should be directed to the Kimberly Inabinet at (571) 272-4618.

Carl Friedman
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:1

DATE : April 19, 2006

TO SPE OF : ART UNIT 1775

SUBJECT : Request for Certificate of Correction on Patent No.: 6,946,181 10/363,538

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-910
Palm location **7590** - Tel. No. 305-8201

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

Thank You For Your Assistance **Certificates of Correction Branch**

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

☒ **Approved** **All** changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

SPE: Jennifer McNeil **Art Unit** 1775

#7

09 DEC 2003

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PEARNE & GORDON LLP
526 Superior Avenue East
Suite 1200
Cleveland, OH 44114-1484

In re Application of :
KADOTA, Yoko :
Application No.: 10/363,565 :
PCT No.: PCT/JP02/03733 :
Int. Filing Date: 15 April 2002 : **DECISION**
Priority Date: 31 May 2000 :
Attorney Docket No.: 35349 :
For: ELECTRIC APPLIANCE, :
INFORMATION RETRIEVING :
METHOD OF ELECTRIC APPLIANCE, :
COMMUNICATION SYSTEM . . . :

This decision is in response to applicants' "Letter Requesting Corrected Filing Receipt, Notification of Acceptance, and Notice of Publication Application" filed via facsimile on 03 November 2003 which is hereby **GRANTED** as follows:

The date in the filing date portion on the filing receipt of a national stage application is the date upon which applicants completed the requirements under 35 U.S.C. 371(c). *See* MPEP sections 1893.03(b), 1895.01.

A review of the above-captioned application reveals that an English translation of the application as filed and a declaration in compliance with 37 CFR 1.497(a) and (b) was submitted on 05 March 2003. Nevertheless, a Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495 (Form PCT/DO/EO/903) was mailed on 21 May 2003 listing a date of receipt of 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) and a date of receipt of all 35 U.S.C. requirements of "04/14/2002." The 14 April 2002 date is inaccurate.

This date should have been recorded as 05 March 2003. Moreover, the title of the above-captioned application indicated on the filing receipt is incomplete. The complete title is "Electric Appliance, Information Retrieving Method of Electric Appliance, Communication System, Information Retrieving Method in Communication System, Information Retrieving Program, and Recording Medium." In addition, a review of the claims verifies that the total claims should be 31 with 5 independent claims.

Accordingly, the Notification of Acceptance mailed 21 May 2003 is hereby **VACATED**.

This application is being forwarded to the DO/EO/US to mail a corrected Notification of

Acceptance indicating a date of receipt of 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) and date of receipt of all 35 U.S.C. requirements of **05 March 2003**, and then mailing a corrected filing receipt indicating the correct filing date, a complete title, total claims of thirty-one and independent claims of five. The application will then be forwarded to Technology Center 2600 for further processing.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (703) 308-6457

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Janelle D Waack
Howrey Simon Arnold & White
750 Bering Drive
Houston TX 77057-2198

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FEB 0 2 2006

OFFICE OF PETITIONS

Applicant: Ishii
Appl. No.: 10/363,574
Filing Date: August 28, 2001
Title: METHOD FOR TREATING THE CENTRAL NERVOUS SYSTEM BY ADMINISTRATION OF IGF STRUCTURAL ANALOGS
Attorney Docket No.: 10606.0032.NPUS01
Pub. No.: US 2005/0101527 A1
Pub. Date: May 12, 2005

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), filed on June 17, 2005, for the above-identified application.

The request is granted.

The corrected patent application publication will be published in due course, unless the patent issues before the application is republished.

Inquiries relating to this matter may be directed to Mark O. Polutta at (571) 272-7709 (voice).

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

SCANI **Please forward case and paper to address shown below.**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 2/12/08 Paper No.: _____

TO SPE OF : ART UNIT 2876 Nguyen, Kimberly

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/363581 Patent No.: 7159763

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: The certificate of correction filed on 11/21/2007 has been approved since the mistakes are of a typographical error and the corrections do not constitute new matter or require reexamination.

SPE MICHAEL G. LEE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

2876
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20081208

DATE : December 08, 2008

TO SPE OF : ART UNIT 2876

SUBJECT : Request for Certificate of Correction on Patent No.: 7159763

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

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

Thank You For Your Assistance **Certificates of Correction Branch**

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

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

The certificate of correction filed on 7/22/08 has been approved since the mistakes are of a typographical error and the corrections do not constitute new matter or require reexamination.

/Michael G Lee/
Supervisory Patent Examiner, Art Unit 2876

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12-05-09

TO SPE OF : ART UNIT 1796

SUBJECT : Request for Certificate of Correction for Appl. No.: 10363591 Patent No.: 7056881

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

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

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

_____

_____

SPE 1796 Art Unit 12/8/2009

12 FEB 2004

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Don W. Bulson
Renner, Otto, Boisselle & Sklar
1621 Euclid Avenue 19th Floor
Cleveland, OH 44115

In re Application of NIETO GIL et al.	:
Application No.: 10/336,613	:
PCT No.: PCT/EP01/07341	: DECISION ON PETITION
Int. Filing: 27 June 2001	:
Priority Date: 05 September 2000	: UNDER 37 CFR 1.47(a)
Attorney Docket No.:BARDP0123US	:
For: ELECTRICALLY POWERED PARKING BRAKE	:

This is a decision on applicant's petition under 37 CFR 1.47(a) filed in the United States Patent and Trademark Office (USPTO) on 24 November 2003, in response to a Notification of Missing Requirements. Applicant requests a three month extension of time, which is granted.

BACKGROUND

On 04 March 2003, within thirty months of the priority date, applicant filed a transmittal letter requesting entry into the national stage in the United States of America under 35 U.S.C. § 371. Filed with the Transmittal Letter was, *inter alia*, the requisite basic national fee.

On 19 June 2003, a Notification of Missing Requirements was mailed to applicant indicating that an oath or declaration, in compliance with 37 CFR 1.497(a) & (b), and the surcharge for filing the oath or declaration after the thirty month period, was required.

On 24 November 2003, applicant filed a petition under 37 CFR 1.47(a) in an attempt to satisfy the requirements of 35 U.S.C. 371(c)(4). The petition requested the acceptance of the application without the signature of inventor Sergio Nieto Gil. Applicant alleges that the inventor refuses to sign the application. The petition included the requisite petition fee, a declaration signed by the joint inventor Juame Prat Terradas on his behalf and on behalf of Sergio Nieto Gil and a statement of facts under 37 CFR 1.47(a).

DISCUSSION

A petition under 37 CFR §1.47(a) must be accompanied by (1) the fee under 37 CFR §1.17(h), (2) factual proof that the non-signing joint inventor(s) refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the non-signing inventor(s), and (4) an oath or declaration by each available joint inventor on his or her own behalf and on behalf of the non-signing joint inventor(s).

Item (1) is satisfied with the payment of the $130 petition fee. Item (3) is satisfied because the last known address for non-signing inventor was provided. With regard to Item (4), the declaration was executed by the available joint inventor on his behalf and on behalf of the non-signing inventor and satisfies the requirement of 37 CFR 1.47(a).

With respect to item (2), Section 409.03(d) of the Manual of Patent Examining Procedure (MPEP), Proof of Unavailability or Refusal, states, in part:

> A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney.... It is reasonable to require that the inventor be presented with the application papers before a petition under 37 CFR 1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. In re Gray, 115 USPQ 80 (Comm'r Pat. 1956).
>
> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Proof that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient. When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal.
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition.

Here, Petitioner's "Declaration of Facts In Support of Filing on Behalf of Omitted Inventor (37 CFR 1.47(a))", in support of applicant's allegation that inventor Sergio Nieto Gil

refuses to sign the application, was submitted by an affiant with the last name of Vidal, who does not identify his(her) relationship to the inventor or counsel or position with the law firm. The first and middle names are unreadable on the document as written.

Affiant Vidal states that "On 23/07/03, a Combined Declaration and Power of Attorney with a copy of the application was sent to the last known address of Sergio Nieto Gil...A copy of my letter to Sergio Nieto Gil, along with an English language translation thereof, is attached as Exhibit A." (Vidal Decl., ¶1). However, the attached letter is unsigned and identifies "Sara Aguilera, Technical Office Assistant, Fico Cables" as the sender, not affiant Vidal. The statement of facts is not from someone having first hand knowledge of the inventor's refusal to sign, that is, the person who presented the inventor with the application papers as set forth in the MPEP.

Furthermore, the letter to the non-signing inventor does not state that a complete copy of the application was forwarded to inventor Gil at this last known address. In fact, the letter states: "In order to be able of [sic] following the rest of procedures for the patent application (our ref: F34124PCUS) it would be necessary to get signed the enclosed documents." The letter does not reference or identify the PCT application to which this correspondence is related (that is, PCT/EP01/07341). The reference number on the letter (F34124PCUS) does not appear to be the reference number for this national stage application. Nor is the letter dated in order to ascertain that this letter is the letter referenced in the Statement of Facts.

The letter does not provide any indication that a copy of the application (including specification, claims and drawings) was presented to Mr. Gil and included with any communication. As the MPEP clearly indicates, what is required is that a copy of the application papers (specification, including claims, drawings, and oath or declaration) be presented to the nonsigning inventor for his signature to ensure that the inventor is apprised of the application to which the oath or declaration is directed.

Under these circumstances, it cannot be concluded that Mr. Gil refused to sign the application. What is required is that Mr. Gil be presented with a copy of all of the national stage application papers (oath and declaration, specification, including claims and drawings) for this application as identified above.

In sum, petitioner has not demonstrated that: (1) a *bona fide* attempt was made to present a copy of the application papers for U.S. application 10/363,613 (specification, including claims, drawings, and declaration) to the nonsigning inventor for his signature, sent to his last known address and (2) Mr. Gil's refusal to sign, either in writing or by telephone, the document.

The evidence submitted does not support a finding that the nonsigning inventor refused to sign the application for the reasons set forth above. Accordingly, it is inappropriate to accord the national stage application status under 37 CFR §1.47(a) at this time.

CONCLUSION

The petition under 37 CFR §1.47(a) is **DISMISSED WITHOUT PREJUDICE**.

Any reconsideration on the merits of the petition under 37 CFR §1.47(a) must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR §1.47(a)." No petition fee is required. Any further extensions of time available may be obtained under 37 CFR 1.136(a).

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

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MAY 13 2004 JC55 PATENT & TRADEMARK OFFICE

CERTIFICATE OF MAILING DT07 Rec'd PCT/PTO 13 MAY 2004

I hereby certify that this paper (along with any paper or item 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 mail in an envelope addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Date: 5-10-04 Jennifer A. Moore

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re PATENT application of:

Applicant(s):	Sergio Nieto Gil et al.	U.S. Serial No:	10/363,613
Inter. Appln. No:	PCT/EP01/07341	Examiner:	<>
Inter. Filing Date:	June 27, 2001	Art Unit:	<>
Title:	ELECTRICALLY POWERED PARKING BRAKE	Docket No.	BARDP0123US

PETITION AND FEE FOR EXTENSION OF TIME

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

Petition hereby is made for an extension of time to respond to the Office communication mailed on February 12, 2004 for a period of:

Number of months *(put an "X" in box)*	X	One	$110	$110.00
		Two	$420	$0.00
		Three	$950	$0.00
		Four	$1,480	$0.00
		Five	$2,010	$0.00
			Extension Fee *(large entity)*	$110.00
Small Entity Status claimed *(put an "X" in box)*			Extension Fee *(small entity)*	$0.00
			less amount paid previously for earlier extension of same deadline	$0.00
			Payment due	$110.00

Fee Payment: [] Attached is a check covering the fee.
[] Charge the fee to Deposit Account No. 18-0988, under the above-shown docket number.
[X] Credit Card Payment Form is enclosed.

If any additional extension of time for the accompanying response is required, applicant requests that this be considered a petition therefor.

The Commissioner is authorized to charge any additional fee which may be required by this petition, or credit any overpayment, to Deposit Account No. 18-0988 under the above-shown docket number.

05/10/2004 SHATORRE 00000143 10363613
01 FC:1251 110.00 OP

Don W. Bulson, Reg. No. 28,192
RENNER, OTTO, BOISSELLE & SKLAR, P.L.L.
1621 Euclid Avenue, 19th Floor
Cleveland, Ohio 44115
(216) 621-1113

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13 AUG 2004

#9

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Don W. Bulson
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Cleveland, OH 44115

In re Application of SERGIO NIETO GIL et al.	:	
Application No.: 10/363,613	:	
PCT No.: PCT/EP01/07341	:	DECISION ON
Int. Filing: 27 June 2001	:	
Priority Date: 05 September 2000	:	RENEWED PETITION
Attorney Docket No.:BARDP0123US	:	
For: ELECTRICALLY POWERED PARKING BRAKE	:	UNDER 37 CFR 1.47(a)

This is a decision on applicant's renewed petition under 37 CFR 1.47(a) filed in the United States Patent and Trademark Office (USPTO) on 13 May 2004. Applicant requests a one month extension of time, which is granted.

BACKGROUND

On 24 November 2003, applicant filed a petition under 37 CFR 1.47(a) in an attempt to satisfy the requirements of 35 U.S.C. 371(c)(4). The petition requested the acceptance of the application without the signature of inventor Sergio Nieto Gil. Applicant alleges that the inventor refuses to sign the application. The petition included the requisite petition fee, a declaration signed by the joint inventor Juame Prat Terradas on his behalf and on behalf of Sergio Nieto Gil and a statement of facts under 37 CFR 1.47(a).

On 12 February 2004, a decision dismissing applicant's petition was mailed indicating that applicant had not supplied evidence that a *bona fide* attempt was made to present a copy of the application papers for U.S. application 10/363,613 (specification, including claims, drawings, and declaration) to the nonsigning inventor for his signature and Mr. Gil's unavailability or refusal to sign after petitioner's diligent effort.

On 13 May 2004, applicant filed a renewed petition accompanied by the declaration of Sara Aguilera, dated 10 May 2004.

DISCUSSION

A petition under 37 CFR §1.47(a) must be accompanied by (1) the fee under 37 CFR §1.17(h), (2) factual proof that the non-signing joint inventor(s) refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the non-signing inventor(s), and (4) an oath or declaration by each available joint inventor on his or her own behalf and on behalf of the non-signing joint inventor(s).

Item (1) and (4) were previously satisfied.

With respect to Item (3), in the petition dated 24 November 2003, counsel stated that "the last known address of the omitted inventor is set forth in the Declaration submitted herewith." The Declaration stated the address for Sergio Nieto Gil as " C/. Duquesa Villahermosa 139, 11°B, 50009 Zaragoza Spain". It is noted that the postal receipt presented as evidence of delivery of the application papers to Mr. Gil bears a different address than the last known address provided by counsel. An explanation is required as why the mailing was sent to a different address. Furthermore, a statement of the current address where Mr. Gil can be reached (his last known address) must be provided. An Internet search may be conducted and the evidence of such provided in any renewed petition. As the papers were not sent to the inventor's last known address, it cannot be concluded that Mr. Gil received the application papers and refuses to sign.

With respect to item (2), Petitioner provides the "Declaration of Sara Aguilera" dated 10 May 2004, in support of the petition under 37 CFR 1.47(a), having first hand knowledge of inventor Sergio Nieto Gil's refusal to sign the application. It is noted that the declaration based on first hand knowledge was executed almost one year after the attempted delivery of the papers.

Affiant Aguilera states that "On July 27, 2003, I wrote to inventor Sergio Nieto Gil and enclosed with my letter a Combined Declaration and Power of Attorney, an Assignment, and copy of the above identified application (specification, claims and drawing). I mailed the letter to inventor Sergio Nieto Gil's last known address and in my letter I asked inventor Sergio Nieto Gil to sign and return the enclosed documents." A copy of Ms. Aguilera's correspondence was attached with English translation. As indicated in the previous decision dated 12 February 2004, the attached letter is unsigned and not dated. The correspondence itself does not state that a complete copy of the application (including specification, claims and drawings) was forwarded to inventor Gil. In fact, the English translation of the attached letter only states: "In order to be able of [sic] following the rest of procedures for the patent application (our ref: F34124PCUS) it would be necessary to get signed the enclosed documents." Ms. Aguilera's correspondence does not reference or identify the PCT application to which this correspondence is related (that is, PCT/EP01/07341) but identifies an internal reference number (F34124PCUS), which would be meaningless to the inventor and is not the reference number for this national stage application. This was the only mail attempt to Mr. Gil at an address which differs from the last known address provided by counsel.

Moreover, Ms. Aguilera's declaration indicates that on 09 October 2003 and "at other times", she tried to reach inventor Gil by phone without success. However, Ms. Aguilera fails to provide any details of her attempts, that is, what dates and times the phone calls were placed, what phone number was called (Mr. Gil's home or work number), and whether any message was left with a person or on an answering machine. Nor was there any attempt to follow-up the delivery of the application papers with an E-mail message to Mr. Gil to confirm receipt of the papers and his refusal to sign. What is required is that a copy of the application papers (specification, including claims, drawings, and oath or declaration) be presented to the nonsigning inventor for his signature to ensure that the inventor is apprised of the application to which the oath or declaration is directed.

Petitioner provided a postal receipt in the Spanish language in an attempt to prove delivery of the application papers. However, an English translation of the entire Spanish language postal receipt was not provided. An English translation of the entire receipt is required.

Since the postal receipt bears an address that does not correspond with the last known address previously provided by applicant, it can not be concluded that Mr. Gil was provided with a complete copy of the application papers (oath and declaration, specification, including claims

and drawings) and that his conduct constitutes a refusal to sign the application. The evidence submitted does not support a finding that the nonsigning inventor refused to sign the application for the reasons set forth above.

The action taken by petitioner is not sufficient to prove that "a diligent effort" was made to contact the nonsigning inventor. Applicant has not made diligent efforts to contact Mr. Gil to obtain his signature. Under these circumstances, it cannot be concluded Mr. Gil either refused or is unavailable to sign the application. Petitioner has not demonstrated that a diligent effort was made to present a copy of the application papers for U.S. application 10/363,613 (specification, including claims, drawings, and declaration) to the nonsigning inventor for his signature and that Mr. Gil's is unavailable or refuses to sign the application papers. Accordingly, it is inappropriate to accord the national stage application status under 37 CFR §1.47(a) at this time.

Since the postal receipt for the correspondence to the inventor is allegedly signed by the inventor's father and delivered to a mailing address that is different than the last known address for the inventor as stated by counsel, a copy of the application (including specification, claims and drawings) properly identifying the PCT/EP01/07341 must be sent to Mr. Gil's last known address. The evidence of such mailing should be submitted as a "Renewed Petition under 37 CFR 1.47(a)". It is strongly recommended that applicant confirm the address of Mr. Gil (i.e. conduct an Internet search to locate a proper address or by E-mail).

CONCLUSION

The petition under 37 CFR §1.47(a) is **DISMISSED WITHOUT PREJUDICE**.

Any reconsideration on the merits of the petition under 37 CFR §1.47(a) must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR §1.47(a)." No petition fee is required. Any further extensions of time available may be obtained under 37 CFR 1.136(a).

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

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25 FEB 2005

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Don W. Bulson
Renner, Otto, Boisselle & Sklar
1621 Euclid Avenue 19th Floor
Cleveland, OH 44115

In re Application of SERGIO NIETO GIL et al.	:	
Application No.: 10/363,613	:	
PCT No.: PCT/EP01/07341	:	DECISION ON
Int. Filing: 27 June 2001	:	
Priority Date: 05 September 2000	:	RENEWED PETITION
Attorney Docket No.:BARDP0123US	:	
For: ELECTRICALLY POWERED PARKING BRAKE	:	UNDER 37 CFR 1.47(a)

This is a decision on applicant's renewed petition under 37 CFR 1.47(a) and request for two month extension of time, filed in the United States Patent and Trademark Office (USPTO) on 20 December 2004, refiled via facsimile on 18 February 2005 and supplemented on 09 February and 24 February 2005. The request for a two month extension of time is granted.

BACKGROUND

On 24 November 2003, applicant filed a petition under 37 CFR 1.47(a) in an attempt to satisfy the requirements of 35 U.S.C. 371(c)(4). The petition requested the acceptance of the application without the signature of inventor Sergio Nieto Gil. Applicant alleges that the inventor refuses to sign the application. The petition included the requisite petition fee, a declaration signed by the joint inventor Juame Prat Terradas on his behalf and on behalf of Sergio Nieto Gil and a statement of facts under 37 CFR 1.47(a).

On 12 February 2004, a decision dismissing applicant's petition was mailed indicating that applicant had not supplied evidence that a *bona fide* attempt was made to present a copy of the application papers for U.S. application 10/363,613 (specification, including claims, drawings, and declaration) to the nonsigning inventor for his signature and of Mr. Gil's unavailability or refusal to sign after petitioner's diligent effort.

On 13 May 2004, applicant filed a renewed petition accompanied by the declaration of Sara Aguilera, dated 10 May 2004. On 13 August 2004, a decision dismissing the petition was mailed to applicant indicating that the action taken by petitioner was not sufficient to prove that "a diligent effort" was made to contact the nonsigning inventor.

On 20 December 2004, applicant filed the instant petition with an English translation of the Spanish postal receipt. The original filing is not located in the application file. Upon the request of the undersigned, on 18 February 2005, applicant resubmitted the 20 December 2004 renewed petition along with a USPTO date-stamped itemized post card receipt evidencing the 20 December 2004 filing. The petition was supplemented on 09 February and 24 February 2005.

DISCUSSION

A petition under 37 CFR §1.47(a) must be accompanied by (1) the fee under 37 CFR §1.17(h), (2) factual proof that the non-signing joint inventor(s) refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the non-signing inventor(s), and (4) an oath or declaration by each available joint inventor on his or her own behalf and on behalf of the non-signing joint inventor(s).

Item (1) and (4) were previously satisfied.

With respect to Item (3), in the petition received 20 December 2004, counsel verified the last known address of the non-signing inventor Sergio Nieto Gil is " C/. Duquesa Villahermosa 139, 11°B, 50009 Zaragoza Spain".

With respect to item (2), on 09 February 2005, Petitioner provided the "Declaration Supporting Petition Under 37 CFR 1.47(a)" of Lara Grant in support of the petition under 37 CFR 1.47(a), having first hand knowledge of inventor Sergio Nieto Gil's refusal to sign the application. Ms. Grant states that on 21 October 2004, she contacted Mr. Gil's counsel, Manuel Moreno-Torres concerning the above referenced application. Thereafter, on 08 November 2004, Mr. Gil sent Ms. Grant a letter, to which she responded on 24 December 2004. Ms. Grant informed Mr. Gil of the necessity of signing the declaration by 30 December 2004. In a letter to Ms. Grant dated 7 January 2005 Mr. Gil's attorney, Manuel Moreno-Torres, states that Mr. Gil is willing to sign the declaration for compensation. Mr. Gil's conduct amounts to a refusal to sign the declaration.

The action taken by petitioner is now sufficient to prove that "a diligent effort" was made to contact the nonsigning inventor. Applicant has made diligent efforts to contact Mr. Gil to obtain his signature and through his attorney, Mr. Gil refuses to sign the declaration without compensation. Under these circumstances, it can be concluded Mr. Gil refuses to sign the application papers. Accordingly, it is appropriate to accord the national stage application status under 37 CFR §1.47(a) at this time.

Applicant has provided sufficient evidence that Sergio Nieto Gil's conduct constitutes a refusal to sign the application. Thus, item (2) is satisfied. Petitioner has satisfied the requirements of 37 CFR 1.47(a). Accordingly, it is appropriate to accord the national stage application status under 37 CFR 1.47(a) at this time.

CONCLUSION

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

The U.S. Designated/Elected Office is authorized to accept the application as a 37 CFR 1.47(a) application using the declaration filed 24 November 2003. The application has an international filing date of 27 June 2001 under 35 U.S.C. 363, and a date of 24 November 2003 under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the non-signing inventors at their respective last known address of record. Also, a notice of the filing of this application will be published in the Official Gazette.

The application is being returned to the United States Designed/Elected Office (DO/EO/US) for processing as the U.S. National Stage of the above-identified international application.

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25 FEB 2005

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Sergio Nieto Gil
C/. Duquesa Villahermosa 139, 11°B
50009 Zaragoza Spain

In re Application of SERGIO NIETO GIL et al.	:	
Application No.: 10/363,613	:	
PCT No.: PCT/EP01/07341	:	DECISION ON
Int. Filing: 27 June 2001	:	
Priority Date: 05 September 2000	:	RENEWED PETITION
Attorney Docket No.:BARDP0123US	:	
For: ELECTRICALLY POWERED PARKING BRAKE	:	UNDER 37 CFR 1.47(a)

Dear Mr. Gil:

You are named as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. § 116. Should a patent be granted, you will be designated as an inventor.

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

Cynthia M. Kratz
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24 JUN 2003

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Bachman & LaPointe
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New Haven, CT 06510-2802

In re Application of	:
KENSUKE ASAKURA	:
Serial No.: 10/363,623	:
PCT No.: PCT/JP01/04048	: DECISION ON PETITION
Int. Filing Date: 15 May 2001	:
Priority Date: 15 May 2000	: UNDER 37 CFR 1.137(b)
Attorney's Docket No.: 03-147	:
For: METHOD AND DEVICE FOR REMOVING PART OF CONCRETE STRUCTURE	:

The petition to revive under 37 CFR 1.137(b) filed 03 March 2003 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that the "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional"meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that the basic national fee of $900 has been paid. The required petition fee of $1300 has also been paid. Thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office for further processing. Per their authorization, applicants' deposit account will be charged the $130 surcharge for filing the declaration after the thirty month period. The 35 U.S.C. 371 date is **03 March 2003.**

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (703) 306-5467

NOTICE RE: CERTIFICATES OF CORRECTION

DATE : 4/19/05 Paper No.: _____

TO : Supervisor, Art Unit 2832

SUBJECT : Certificate of Correction Request in Patent No.: 6,831,241 B2 10/363,673

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: Corrections do not change scope of claims.

Supervisor

2832

Art Unit

PTO/SB/44 (02-01)
(Also form PTO-1050)

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

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO	:	6,831,241 B2
DATED	:	December 14, 2004
INVENTOR(S)	:	Toshiharu FUKUI et al.

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

OK
Approved
EG

On the Cover Page

In Section (56) References Cited, under the "FOREIGN PATENT DOCUMENTS" heading, please insert the following reference:

JP	02-273409	11/1990

IN THE CLAIMS

In claim 1, column 10, line 11, please replace "1×10^7 dyne/cm^{2}." with --1×10^7 dyne/cm^2.--

Wenderoth, Lind & Ponack, L.L.P.
2033 K Street, N. W., Suite 800
Washington, D.C. 20006-1021

PATENT NO. 6,831,241

No. of additional copies

MAR 2 1 2005

24 FEB 2004

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Frank A. Delucia
Fitzpatrick, Cella, Harper & Scinto
30 Rockefeller Plaza
New York, New York 10112

In re Application of :
YAP et al. :
Application No.: 10/363,679 : DECISION
PCT No.: PCT/AU01/01145 :
Int. Filing Date: 12 September 2001 :
Priority Date: 12 September 2000 :
Attorney Docket No.: 00169.002178 :
For: SYSTEM FOR CARD-BASED SERVICE ACCESS

This is a response to applicants' facsimile communication filed 12 February 2004, which has been treated as a request to vacate the Notification of Missing Requirements (PCT/DO/EO/905) mailed 16 June 2003 in view of the filing of a declaration on 06 June 2003.

On 12 September 2001, applicants filed international application PCT/AU01/01145 which claimed a priority date of 12 September 2000. A Demand was filed with the International Preliminary Examining Authority prior to the 19th month from the earliest claimed priority date. Accordingly, the thirty-month time period for submitting the requisite basic national fee in the United States of America expired on 12 March 2003.

On 06 March 2003, applicants filed a Transmittal Letter (PTO-1390) requesting entry into the national stage in the United States of America under 35 U.S.C. 371. Filed with the Transmittal Letter were, *inter alia*, the requisite basic national fee; a copy of the international application; and a preliminary amendment.

On 16 June 2003, the United States Designated/Elected Office mailed a Notification of Missing Requirements (PCT/DO/EO/905) requiring submission of an oath or declaration in compliance with 37 CFR 1.497 and the surcharge under 37 CFR 1.492(e).

On 12 February 2004, applicants submitted via facsimile: a copy of the declaration filed on 06 June 2003 and a postcard receipt evidencing its receipt in the Patent and Trademark Office on 06 June 2003 and requests, in effect, that the copy of the declaration be accepted as a true copy of the declaration filed 06 June 2003.

Applicants have provided a copy of their date-stamped postcard receipt. The receipt identifies the application by applicants, title of invention, and the docket number. The receipt itemizes, among other things, a Declaration and Power of Attorney. The receipt is

stamped "OIPE JUN 06, 2003" across its face is sufficient to indicate that the declaration and power of attorney was in fact received in the Office on 06 June 2003.
Therefore, applicants' request to vacate the Notification of Missing Requirements is **GRANTED**.

In view of the declaration filed 06 June 2003, the Notification of Missing Requirements (Form PCT/DO/EO/905) dated 16 June 2003 is hereby **VACATED**.

The application has an international filing date of 12 September 2001 under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) date of **06 June 2003**.

This application is being returned to the United States/Designated Elected Office for processing in accordance with this decision.

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25 OCT 2003

UNITED STATES PATENT and TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
www.uspto.gov

John J. Connors
Connors & Associates, Inc.
1600 Dove Street, Suite 220
Newport Beach, CA 92660

In re Application of	:	
Carlos et al.	:	
Serial No.: 10/363,721	:	DECISION ON
Filing Date: 05 March 2003	:	
Attorney's Docket No.: 9231.2	:	PETITION
For: NON-LETHAL GAMECOCK SPARRING	:	
MATCH, EQUIPMENT & METHODS	:	UNDER 37 CFR 1.78

This decision is responsive to the "PETITION AND DECLARATION" filed 15 March 2004 which is being treated as a petition under 37 CFR 1.78. The $1330 petition fee has been paid.

BACKGROUND

On 06 September 2001, applicants filed international application PCT/US01/27611, which claimed priority of an earlier U.S. provisional application 60/231,252 which was filed 08 September 2000. On 05 March 2003, applicants filed an application for national stage entry in the United States. This application was assigned U.S. serial number 10/363,721.

Upon filing of the national stage application, applicants failed to include a claim for priority to the provisional application.

On 15 March 2004, applicants filed the current petition requesting that the priority claim to the earlier filed provisional application be accepted since the delay in filing the claim was unintentional.

DISCUSSION

37 CFR 1.78(a)(6) states, in part:

> A petition to accept an unintentionally delayed claim under 35 U.S.C. 119(e) for the benefit of a prior filed provisional application must be accompanied by:
>
> (i) The reference required by 35 U.S.C. 119(e) and paragraph (a)(5) of this section to the prior-filed provisional 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)(5)(ii) of this section 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.

With respect to the reference required by 35 U.S.C. 119(e) and paragraph (a)(5) of this section to the prior-filed provisional application, applicant has failed to provide the necessary amendment. Applicant failed to include the proper language which would set out the relationship between the applications. With respect to the surcharge, applicant has paid the required surcharge. With respect to the required statement, applicant failed to state that the ***entire*** delay was unintentional. Therefore, the petition to accept the priority claim is dismissed.

CONCLUSION

The petition to accept an unintentionally delayed priority claim is **DISMISSED**.

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

Debra Brittingham
PCT Legal Office
DSB/LS:dsb

Tel: (703) 305-3401
Fax: (703) 308-6459

Conferee: Leonard Smith
PCT Legal Examiner
PCT Legal Office

04 MAR 2005

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John J. Connors
Connors & Associates, Inc.
1600 Dove Street, Suite 220
Newport Beach, CA 92660

In re Application of	:	
Carlos et al.	:	
Serial No.: 10/363,721	:	DECISION ON
Filing Date: 05 March 2003	:	
Attorney's Docket No.: 9231.2	:	PETITION
For: NON-LETHAL GAMECOCK SPARRING	:	
MATCH, EQUIPMENT & METHODS	:	UNDER 37 CFR 1.78

This decision is responsive to the "REPLY ON PETITION UNDER 37 CFR 1.78 & REQUEST FOR RECONSIDERATION" filed 06 December 2004 which is being treated as a petition under 37 CFR 1.78.

BACKGROUND

On 06 September 2001, applicants filed international application PCT/US01/27611, which claimed priority of an earlier U.S. provisional application 60/231,252 which was filed 08 September 2000. On 05 March 2003, applicants filed an application for national stage entry in the United States. This application was assigned U.S. serial number 10/363,721.

Upon filing of the national stage application, applicants failed to include a claim for priority to the provisional application.

On 15 March 2004, applicants filed a petition requesting that the priority claim to the earlier filed provisional application be accepted since the delay in filing the claim was unintentional.

On 25 October 2004, the petition was dismissed because applicant failed to provide the necessary amendment.

DISCUSSION

37 CFR 1.78(a)(6) states, in part:

> A petition to accept an unintentionally delayed claim under 35 U.S.C. 119(e) for the benefit of a prior filed provisional application must be accompanied by:
>
> (i) The reference required by 35 U.S.C. 119(e) and paragraph (a)(5) of this section to the prior-filed provisional 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)(5)(ii) of this section and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Applicant has filed the proper amendment to the specification. The surcharge was submitted with the earlier filed petition. Further, applicant has included a statement indicating that the entire delay was unintentional.

CONCLUSION

The petition to accept an unintentionally delayed priority claim is **GRANTED**.

This application is being forwarded back to the Technology Center for processing in accordance with this decision.

Debra Brittingham
Office of PCT Legal Administration
DSB/BM:dsb

Boris Milef
PCT Legal Examiner
Office of PCT Legal Administration

Tel: (571) 272-3280
Fax: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

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David A Farah
Sheldon & Mak
9th Floor
225 South Lake Avenue
Pasadena, CA 91101

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JUN 07 2005

OFFICE OF PETITIONS

In re Application of	:	
German Spangenberg, et al.	:	
Application No. 10/363,723	:	NOTICE
Filed: June 6, 2003	:	
Attorney Docket No. 14403 US	:	

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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BROWDY AND NEIMARK, P.L.L.C.
624 NINTH STREET, NW
SUITE 300
WASHINGTON DC 20001-5303

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NOV 2 9 2004

OFFICE OF PETITIONS

Applicant: Ferronato
Appl. No.: 10/363,743
International Filing Date: August 31, 2001
Title: APPARATUS FOR UPHOLSTERING COMPONENTS OF CHAIRS, ARMCHAIRS OR THE LIKE
Attorney Docket No.: FERRONATO1
Pub. No.: US 2004/0098850 A1
Pub. Date: May 27, 2004

This is in response to the request for correction of patent application publication under 37 CFR 1.221(b), which was filed on July 27, 2004.

The request is DISMISSED.

The instant request is that the application be republished because the front page of the patent application publication includes error in the foreign priority information as the application is listed as "PD2000/A0002143," not "PD2000/A000214".

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.[1] The instant request does not identify a material mistake in the publication made by the Office:

The typographical error in the foreign priority information on the front page of the published patent application is an Office error but it is not a material error, as required by 37 CFR 1.221(b). The error in the foreign priority claim is not a material mistake because 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. The specification and claims were accurately published, thus one can read and understand the content of the application. The error also does not affect the use of the patent application publication as a prior art reference, because the foreign priority date is not useable as a reference date.

---

[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239 Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

On July 10, 2003, a Filing Receipt was mailed with the error in the foreign priority claim. To avoid this type of problem in the future, applicants' representative should make request a corrected filing receipt using the facsimile number (703-746-9195) on the Filing Receipt.

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

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 the undersigned at (571) 272-7709.

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

Enclosure: Corrected Filing Receipt

28 MAR 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Sol Sheinbein
G.E. Ehrlich (1995) Ltd.
c/o Anthony Castorina
Suite 207
2001 Jefferson Davis Highway
Arlington, VA 22202

In re Application of	:	
Ori ELAN	:	
Application No. 10/363,759	:	DECISION ON
PCT No.: PCT/IL00/00836	:	
Int. Filing Date: 14 December 2000	:	PETITION UNDER
Priority Date: 10 January 2000	:	
Atty. Docket No.: 00/21082	:	37 CFR 1.137(b)
For: Device For Preventing Or Relieving Pain In The Lower Back	:	

This is in response to the petition under 37 CFR 1.137(b) filed on 27 December 2002.

BACKGROUND

This international application was filed on 14 December 2000 and claimed earliest priority of an application filed on 10 January 2000. The International Bureau transmitted a copy of the published international application to the USPTO on 19 July 2001. A Demand electing the United States was filed on 08 August 2001, prior to the elapse of 19 months from the priority date. Accordingly, the 30 month time period for paying the basic national fee in the United States expired at midnight on 10 July 2002. This international application became abandoned with respect to the United States for failure to timely pay the required basic national fee.

DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed; (2) the petition fee as set forth in § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Regarding requirement (1), the petition was accompanied by the required reply in the form of authorization to charge the basic national fee to counsel's deposit account.

Regarding requirement (2), the petition included authorization to charge the petition

fee to counsel's deposit account.

Regarding requirement (3), the petition includes an appropriate statement.

Regarding requirement (4), no terminal disclaimer is required because the international filing date of this application is later than 8 June 1995.

DECISION

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

Counsel's Deposit Account No. 50-1407 is being charged in the amount of $640.00 for the petition fee and $65.00 for the surcharge under 37 CFR 1.492(e), as authorized by the Transmittal Letter filed 27 December 2002.

This application is being forwarded to the National Stage Processing Branch for further processing. The date of the application under 35 U.S.C. 371 (c)(1), (2) and (4) is **27 December 2002**.

Richard Cole
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (703) 308-6721
Fax: (703) 308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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GROSSMAN TUCKER PERREAULT & PFLEGER
55 SOUTH COMMERICAL STREET
MANCHESTER, NH 03101

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OFFICE OF PETITIONS

In re Application of	:	
Ching Fong	:	
Application No. 10/363,772	:	ON PETITION
Filed: October 14, 2003	:	
Attorney Docket No. TRM TR990039A	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 11, 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 March 21, 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 22, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an Amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of March 21, 2005 is accepted as having been unintentionally 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). Accordingly, since the $1,020 extension of time submitted with the petition on October 11. 2005 was subsequent to the maximum extendable period for reply, petitioner may request a refund of this fee by writing to: Mail Stop 16, Director of the US Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany petitioner's request.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 2875.

Wan Laymon
Petitions Examiner
Office of Petitions

05 SEP 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Robert C. Faber
Ostrolenk, Faber, Gerb & Soffen, LLP
1180 Avenue of the Americas
New York, NY 10036

In re Application of :
HALOT et al. :
U.S. Application No.: 10/363,782 : DECISION ON PETITION
PCT No.: PCT/FR01/02661 : UNDER 37 CFR 1.47(a)
Int. Filing Date: 23 August 2001 :
Priority Date: 04 September 2000 :
Attorney Docket No.: P/24-176 :
For: PROCESS FOR GIVING A :
SEMITRANSPARENT METALIZED
APPEARANCE TO COSEMETIC CASE
OR PACKAGING COMPONENT, AND
COMPONENT THUS OBTAINED

This is a decision on applicants' "Petition under 37 CFR 1.47(b) " filed 30 July 2003 to accept the application without the signature of joint-inventor, Bruno Halot. The required petition fee of $130.00 (37 CFR 1.17(h)) has been submitted.

BACKGROUND

On 23 August 2001, applicants filed international application PCT/FR01/02661 which claimed a priority date of 04 September 2000. A Demand was filed with the International Preliminary Examining Authority prior to the 19th month from the earliest claimed priority date. Accordingly, the thirty-month time period for submitting the requisite basic national fee in the United States of America was extended to expire 30 months from the priority date, i.e., 04 March 2003.

On 04 March 2003, applicants filed a transmittal letter for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); preliminary amendment; an information disclosure statement; and an English translation of the international application.

On 02 June 2003, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring an oath or declaration in compliance with 37 CFR 1.492(a) and (b).

On 30 July 2003, applicants filed a Petition under 37 CFR 1.47(b).

DISCUSSION

It is noted that where an inventor has signed the declaration, a petition under 37 CFR 1.47(b) is not an available remedy. (See Manual of Patent Examining Procedure, Section 409.03(b). Therefore, the petition will be treated as a petition under 37 CFR 1.47(a). A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and behalf of the non-signing joint inventor. Items (1), (3) and (4) have been satisfied.

With regards to Item (2), the application and papers have been reviewed and have been found to be in compliance with 37 CFR 1.47(a). The steps taken by Didier Bertrand are sufficient to establish that the nonsigning inventor refuses to execute the application.

CONCLUSION

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

The application will be given an international filing date of 23 August 2001 under 35 U.S.C. 363, and a date of 30 July 2003 under 35 U.S.C. 371(c).

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

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

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel.: 703-308-6314
Fax: 703-308-6459

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

MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

In re Application of :
Peter SCHUCHARDT :
Application No. 10/363,787 : DECISION ON PETITION
Filed: March 7, 2003 : TO WITHDRAW
Attorney Docket No. 449122052100 : 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 October 29, 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 Diane Goodwyn at 571-272-6735.

April M. Wise
Petitions Examiner
Office of Petitions

cc: BELL, BOYD & LLOYD, LLP
PO BOX 1135
CHICAGO, IL 60690

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
10/363,787	03/07/2003	Peter Schuchardt	

CONFIRMATION NO. 3030

POA ACCEPTANCE LETTER

24131
LERNER GREENBERG STEMER LLP
P O BOX 2480
HOLLYWOOD, FL 33022-2480

OC00000026917697

Date Mailed: 11/27/2007

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

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

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

/dcgoodwyn/

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

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
10/363,787	03/07/2003	Peter Schuchardt	

CONFIRMATION NO. 3030

POWER OF ATTORNEY NOTICE

25227
MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

OC000000026917654

Date Mailed: 11/27/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

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

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

/dcgoodwyn/

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

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FULBRIGHT & JAWORSKI, LLP
1301 MCKINNEY
SUITE 5100
HOUSTON TX 77010-3095

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NOV 16 2006
OFFICE OF PETITIONS

In re Application of :
Dybdahl :
Application No. 10/363,816 : ON PETITION
Filed: August 28, 2001 :
Attorney Docket No. PO2766US0 :

This is a decision on the petition under 37 CFR 1.137(a), filed October 18, 2006, to revive the above-identified application.

The petition is **DISMISSED.**

Any further petition to revive must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Petition under 37 CFR 1.137." This is **not** a final agency action within the meaning of 5 U.S.C.§ 704.

The Office contends that the above-identified application became abandoned for failure to submit a reply to the March 9, 2006 Notice of Non-Compliant Amendment, which set an extendable one month or 30 day, whichever is longer, period for reply. No reply being received, the Office considered this application abandoned on April 10, 2006. A Notice of Abandonment was mailed on September 18, 2006.

Petitioner alleges that the March 9, 2006 Notice was not received. Petitioner asserts that the firm handling this application has a reliable system for processing Office communications and that the records show that the March 9, 2006 Notice was not received and that none of the staff recalls seeing it.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed;[1] (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the

[1] In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for

and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d). The instant petition lacks item (3).

The showing required to establish non-receipt of an Office communication must include:

1. A statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received.
2. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.[1]

A review of the record indicates no irregularity in the mailing of the March 9, 2006 Notice, and in the absence of any irregularity there is a strong presumption that the communication was properly mailed to the applicant at the correspondence address of record. This presumption may be overcome by a showing that the aforementioned communication was not in fact received.

The showing in the instant petition is not sufficient to withdraw the holding of abandonment because (1) practitioner did not include a statement that a thorough search of the file jacket and docket records was conducted and (2) practitioner did not include a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed.

In short, petitioner has not provided adequate evidence of non-receipt. The petition is dismissed.

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

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

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

[1] See notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

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

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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FULBRIGHT & JAWORSKI, LLP
1301 MCKINNEY
SUITE 5100
HOUSTON TX 77010-3095

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OFFICE OF PETITIONS

In re Application of :
Dybdahl :
Application No. 10/363,816 : ON PETITION
Filed: September 10, 2003 :
Attorney Docket No. PO2766US0 :

This is a decision on the reconsideration petition under 37 CFR 1.137(a), filed December 26, 2006 (certificate of mailing date December 21, 2006), to revive the above-identified application. The petition will be treated under 37 CFR 1.181 as a petition to withdraw the holding of abandonment.

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

The petition under 37 CFR 1.137(a) is **DISMISSED.**

The Office contends that the above-identified application became abandoned for failure to submit a reply to the March 9, 2006 Notice of Non-Compliant Amendment, which set an extendable one month or 30 day, whichever is longer, period for reply. No reply being received, the Office considered this application abandoned on April 10, 2006. A Notice of Abandonment was mailed on September 18, 2006.

Petitioner alleges that the March 9, 2006 Notice was not received. The showing required to establish non-receipt of an Office communication must include:

1. A statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received.

2. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.[1]

Petitioner has submitted a copy of the docket record where the requirement would have been entered had the March 9, 2006 Notice been received. In addition, practitioner referenced the docket record in the petition and stated that a review of the application's file jacket and docket record for the March 9, 2006 Notice was fruitless.

Petitioner has established non-receipt. The petition is **granted**, the holding of abandonment is withdrawn, and the September 18, 2006 Notice of Abandonment is **vacated**.

Petitioner has filed a response to the March 9, 2006 Notice with the October 18, 2006 petition. As such, there is no need to re-mail the March 9, 2006 Notice with a new period set for reply.

After the mailing of this decision, the application will be returned to Technology Center A.U. 3672 for consideration of the amendment filed on October 18, 2006.

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

[1] See notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

16 MAR 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

#9

COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Incyte Genomics, Inc.
3160 Porter Drive
Palo Alto, California 94304

In re Application of
JACKSON et al.
Application No.: 10/363,829
PCT No.: PCT/US01/27628
Int. Filing Date: 06 September 2001
Priority Date: 06 September 2000
Attorney Docket No.: PT-1183USN
For: MOLECULES FOR DISEASE DETECTION AND TREATMENT

DECISION ON PETITION UNDER 37 CFR 1.182

This decision is in response to applicants' "Communication Re Inventor Name Change" filed 05 March 2003 and "Petition for Name Change of Inventor under 37 CFR 1.182" filed on 30 May 2003. Applicants are requesting to change the name of the sixth named inventor from Jennifer Hillman to Jennifer L. Jackson due to marriage and the name of the eighteenth named inventor from Ann M. Roseberry to Ann M . Roseberry Lincoln. The petition was accompanied by an affidavit signed by Jennifer L. Jackson and Ann M . Roseberry Lincoln using both their former names and present names. The petition fees under 37 CFR 1.17 have been submitted.

DISCUSSION

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

The petitions have been reviewed and is approved. The declarations submitted on 11 August 2003 are accepted.

CONCLUSION

The petition under 37 CFR 1.182 to change the inventors' name from Jennifer Hillman to Jennifer L. Jackson and Ann M. Roseberry to Ann M . Roseberry Lincoln are **GRANTED**.

This application is being forwarded to United States/Elected Office for further processing in accordance with this decision.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (703) 308-6314
Fax: (703) 308-6459

30 SEP 2003

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Royal N. Ronning, jr.
AMERSHAM BIOSCIENCES CORP.
800 Centennial Avenue
Piscataway, New Jersey 08855

In re Application of
Yoshikatsu AKIYAMA, et al.
Application No.: 10/363,842
PCT No.: PCT/JP01/02960
Int. Filing Date: 05 April 2001
Priority Date: 05 April 2000
Attorney Docket No.: PL0011
For: NOVEL MATERIAL FOR USE IN SEPARATION AND SEPARATING METHOD USING THE SAME

DECISION ON PETITION UNDER 37 CFR 1.10(e)

This decision is in response to the "Status Inquiry" filed 10 March 2003, which is being treated as a petition under 37 C.F.R. 1.10(e) requesting acceptance of a copy of the papers filed with the petition as being submitted on 23 September 2002 in the above-captioned application. No petition fee is required.

DISCUSSION

The Rules, at 37 C.F.R. 1.10(e), require that:

Any person mailing correspondence addressed as set out in § 1.1(a) to the Office with sufficient postage utilizing the "Express Mail Post Office to Addressee" service of the USPS but not received by the Office, may petition the Commissioner to consider such correspondence filed in the Office on the USPS deposit date, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has no evidence of receipt of the correspondence;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail";

(3) The petition includes a copy of the originally deposited paper(s) or fee(s) that constitute the correspondence showing the number of the "Express Mail" mailing label

thereon, a copy of any returned postcard receipt, a copy of the "Express Mail" mailing label showing the "date-in," a copy of any other official notation by the USPS relied upon to show the date of deposit, and, if the requested filing date is a date other than the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS, a showing pursuant to paragraph (d)(3) of this section that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day; and

(4) The petition includes a statement which establishes, to the satisfaction of the Commissioner, the original deposit of the correspondence and that the copies of the correspondence, the copy of the "Express Mail" mailing label, the copy of any returned postcard receipt, and any official notation entered by the USPS are true copies of the originally mailed correspondence, original "Express Mail" mailing label, returned postcard receipt, and official notation entered by the USPS.

All of the requirements set above have been met. Regarding item (1), the petition has been filed promptly after applicants become aware that the Office has no evidence of receipt of the original papers. Regarding item (2), the number of the "Express Mail" mailing label was placed on the Certificate of Mailing by "Express Mail". Regarding item (3), the petition includes a copy of the originally deposited papers and fees, and a copy of the "Express Mail" label No. EV037577922US having a "date-in" of 23 September 2002. Regarding item (4), applicants' counsel's statement that "Applicants are enclosing herewith an additional copy of the papers filed on that date" is construed as meaning that the national stage papers filed with the petition are true and accurate copies of the original papers filed in the PCT Office on 23 September 2002. Accordingly, acceptance of a copy of the papers filed 10 March 2003 as being filed on 23 September 2002 is appropriate.

CONCLUSION

The petition is **GRANTED**.

The application is being returned to the United States Designated/Elected Office for processing in accordance with this decision, that is, for acceptance of the national stage papers of PCT/JP01/02960 submitted on 10 March 2003 as being filed on 23 September 2002.

Boris Milef
PCT Legal Examiner
PCT Legal Office
NNH/BM:hn

Nguyên Ngoc-Hô
Paralegal Specialist
PCT Legal Office
Tel: (703) 308-6508

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MAR 31 2004

PAPER NO. ___

In re Application of
Thomas M. Fitch et al.
Serial Number: 10/363,849
Filed: March 14, 2003
For: FILTRATION MEDIA OF POROUS INORGANIC PARTICLES

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

This is in response to the petition filed December 22, 2003 requesting that the above-identified application be granted Special Status under Section 708.02 IV of the MPEP and 37 CFR 1.102(c) (**no fee required**).

The request for Special Status considered under Section 708.02 IV of the MPEP is granted because criteria under 37 CFR 1.102(c) has been met. The petition filed January 29, 2004, has been dismissed because the petition to make special filed on December 22, 2003 has been granted.

Accordingly the petition is **GRANTED.**

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

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

Pet. Entered 6/4/04

Pet. Dec.

Atty. Dkt. No. 065640-0228

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Thomas M. FITCH et al.
Title:	FILTRATION MEDIA
Prior Appl. No.:	10/363,849
Prior Appl. Filing Date:	03/14/2003
Examiner:	Unassigned
Art Unit:	Unassigned

SN 10/866,250
PETITION GRANTED

Richard Crispino
Special Program Examiner
TC 1700 11/22/04

PETITION TO MAKE SPECIAL UNDER 37 C.F.R. 1.102(c)

Mail Stop Petition
Commissioner for Patents
PO Box 1450
Alexandria, Virginia 22313-1450

Sir:

Applicants hereby petition the Patent and Trademark Office under 37 C.F.R. §1.102(c) to make special the instant application. It is believed that no fee is due for the instant petition; however, should a fee be required, the PTO is authorized to charge the Deposit Account No. 19-0741. This petition is submitted on the grounds that one of the present applicants is 65 years of age or more as set forth in 37 C.F.R. § 1.102(c). The basis for the petition is to obtain special status for this application so that it receives expedited prosecution.

MPEP § 708.02 IV provides that "[a]n application may be made special upon filing a petition including any evidence showing that the applicant is 65 years of age, or more, such as a birth certificate or applicant's statement. No fee is required for such a petition."

In the present case, James R. Johnson is greater than 65 years of age. A copy of his notarized birth certificate and his notarized statement that he is over 65 years of age is attached hereto, thereby providing evidence that James R. JOHNSON is greater than 65 years old and meets the requirements for awarding "special" status to the present application.

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June 8, 2004

HUNTLEY & ASSOCIATES
Donald W. Huntley
1105 North Market Street
P.O. Box 948
Wilmington, DE 19899-0948

JUN 18 2004

In re application	:	
SMITH, GREGORY S.	:	NOTICE OF WITHDRAWAL
Application No.: 10/363,887	:	FROM ISSUE
Filed: March 10, 2003	:	UNDER 37 CFR 1.313
Attorney Docket No.: SMITH-1USA	:	
For: DEFORMABLE LENS FOR	:	
ADJUSTABLE EYE GLASSES	:	

The purpose of this communication is to inform you that the above identified application is being withdrawn from issue pursuant to 37 CFR 1.313.

The above identified application is hereby withdrawn from issue. The Notice of Allowance and Issue Fee Due and the Notice of Allowability mailed May 5, 2004 are hereby vacated.

The application is being withdrawn to permit reopening of prosecution. The reasons therefor will be communicated to you by the examiner.

If the issue fee has been submitted, the applicant may request a refund, or may request that the fee be credited to a deposit account. However, applicant may wait until the application is either again found allowable or held abandoned. If the application is allowed, upon receipt of a new Notice of Allowance and Issue Fee Due, applicant may request that the previously submitted issue fee be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due. If the application is abandoned, applicant may request either a refund or a credit to a Deposit Account.

Telephone inquiries should be directed to Supervisory Patent Examiner Georgia Y. Epps at (571) 3272-2328.

The above identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

Janice A. Falcone, Director
Technology Center 2800
Semiconductor, Electrical, and Optical
Systems, and Components

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June 8, 2004

HUNTLEY & ASSOCIATES
Donald W. Huntley
1105 North Market Street
P.O. Box 948
Wilmington, DE 19899-0948

JUN 18 2004

In re application :
SMITH, GREGORY S. :
Application No.: 10/363,887 :
Filed: March 10, 2003 :
Attorney Docket No.: SMITH-1USA :
For: DEFORMABLE LENS FOR :
ADJUSTABLE EYE GLASSES :

NOTICE OF WITHDRAWAL
FROM ISSUE
UNDER 37 CFR 1.313

RECEIVED
JUN 18 2004
OIPE/JCWS

The purpose of this communication is to inform you that the above identified application is being withdrawn from issue pursuant to 37 CFR 1.313.

The above identified application is hereby withdrawn from issue. The Notice of Allowance and Issue Fee Due and the Notice of Allowability mailed May 5, 2004 are hereby vacated.

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If the issue fee has been submitted, the applicant may request a refund, or may request that the fee be credited to a deposit account. However, applicant may wait until the application is either again found allowable or held abandoned. If the application is allowed, upon receipt of a new Notice of Allowance and Issue Fee Due, applicant may request that the previously submitted issue fee be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due. If the application is abandoned, applicant may request either a refund or a credit to a Deposit Account.

Telephone inquiries should be directed to Supervisory Patent Examiner Georgia Y. Epps at (571) 3272-2328.

The above identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

Janice A. Falcone, Director
Technology Center 2800
Semiconductor, Electrical, and Optical
Systems, and Components

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HENSLEY KIM & HOLZER, LLC
1660 LINCOLN STREET, SUITE 3000
DENVER CO 80264

COPY MAILED

JUN 18 2008

In re Application of :
Richard Schmidt :
Application No. 10/363,892 :
Filed: March 7, 2003 :
Atty Docket No. 324-002-USP :

DECISION ON APPLICATION
for
PATENT TERM ADJUSTMENT

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT PURSUANT TO 37 C.F.R. § 1.705," filed January 18, 2008. Applicant requests that the determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from three hundred eighty-eight (388) days to a total of six hundred seventy-six (676) days. Applicant requests, in part, that a period of adjustment of 740 days be entered on the bases that the Office failed to issue a patent within three years of the commencement of the national stage.

To the extent that the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, a decision is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is ordinarily required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.703(b). It is noted that at the time of this decision, the patent has not issued.

Applicant is given **TWO (2) MONTHS** from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within 3 years. A copy of this decision should accompany the request. Applicant may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of § 1.705(d) must be met.

Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

With respect to the period of Office delay for the Office taking in excess of three years to issue the patent, 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.

With respect to applicant's other bases for filing this paper, the application for patent term adjustment is **DISMISSED**.

On November 2, 2007, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 388 days. On January 18, 2008, applicant timely submitted the instant application for patent term adjustment[1]. Applicant maintains that the period of reduction of 132 days entered pursuant to 37 CFR 1.704(c)(8), for the filing of an Information Disclosure Statement (IDS) on February 26, 2007 was entered in error. Applicant contends that the IDS contained the certification pursuant to § 1.704(d), and thus, its filing did not constitute a failure to engage in reasonable efforts to conclude prosecution of this application under 37 C.F.R. § 1.704(c)(8).

Applicant states that the application is not subject to a terminal disclaimer.

Pursuant to 37 CFR § 1.704(c)(8), the submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after

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[1] PALM records show that the Issue Fee was received on January 30, 2008.

a reply has been filed, is a failure to engage in reasonable efforts to conclude prosecution. It is undisputed that after filing a response on October 17, 2006, on February 26, 2007, applicant filed an IDS. The record does not support a conclusion that the IDS was expressly requested by the examiner.

A review of the IDS filed February 26, 2007, reveals that it did not include the proper § 1.704(d) statement. The required statement states, in pertinent part, 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 § 1.56(c) more than thirty days prior to the filing of the information disclosure statement.

Applicants are reminded that § 1.704(d) was revised, effective May 24, 2004. This revision requires that the statement include the language "each item of information contained in the information disclosure statement was first cited ..." for the exception to apply. See 69 FR 21704, Apr. 22, 2004.

The statement in the IDS filed February 26, 2007 does not contain the language required by 37 CFR 1.704(d). Nor has a proper party made such a statement on request for reconsideration of patent term adjustment. Accordingly, it is concluded that a period of reduction of 132 days pursuant to § 1.704(c)(8) was properly entered for the filing of the IDS on February 26, 2007.

In view thereof, the determination of patent term adjustment at the time of the mailing of the notice of allowance is 388 days.

Receipt of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. 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) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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HENSLEY KIM & HOLZER, LLC
1660 LINCOLN STREET, SUITE 3000
DENVER CO 80264

COPY MAILED

AUG 1 1 2008

In re Application of	:	
Richard Schmidt	:	DECISION ON APPLICATION
Application No. 10/363,892	:	for
Filed: March 7, 2003	:	PATENT TERM ADJUSTMENT
Atty Docket No. 324-002-USP	:	

This is a decision on the "CORRECTED CERTIFICATION FOR INFORMATION DISCLOSURE STATEMENT DATED 26 FEBRUARY 2007 AND REQUEST FOR RECONSIDERATION, IN PART, OF APPLICATION REQUESTING PATENT TERM ADJUSTMENT" filed July 16, 2008. This decision is made in light of the "REVISED CORRECTED CERTIFICATION FOR INFORMATION DISCLOSURE STATEMENT DATED 26 FEBRUARY 2007 AND REQUEST FOR RECONSIDERATION, IN PART, OF APPLICATION REQUESTING PATENT TERM ADJUSTMENT" OF, APPLICATION FOR PATENT TERM ADJUSTMENT PURSUANT TO 37 C.F.R. § 1.705," filed July 17, 2008. Applicant requests the determination of patent term adjustment under 35 U.S.C. 154(b) at the time of the mailing of the notice of allowance be corrected from three hundred eighty-eight (388) days to five hundred twenty-two (522) days.

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

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is FIVE HUNDRED TWENTY **(520)**[1] days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On November 2, 2007, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 388 days. On January 18, 2008,

[1] The reduction for the IDS was 132 days, not 134 days. Accordingly, upon granting of this petition, the patent term adjustment at the time of the mailing of the notice of allowance is corrected to 520 days, not 522 days.

applicant timely submitted an application for patent term adjustment. Applicant requested that the period of reduction of 132 days entered pursuant to 37 CFR 1.704(c)(8), for the filing of an Information Disclosure Statement (IDS) on February 26, 2007 was entered in error. Applicant contended that the IDS contained the certification pursuant to § 1.704(d). By decision mailed June 16, 2008, the application for patent term adjustment was dismissed on the basis that the IDS as filed on February 26, 2007 did not include the certification as required by § 1.704(d) and no such certification was made on application for patent term adjustment.

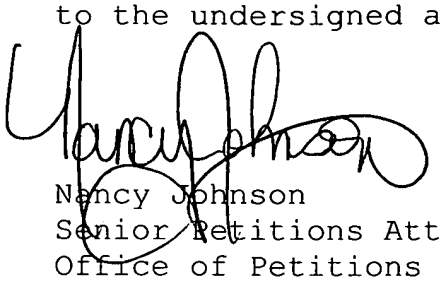
On instant renewed application for patent term adjustment, as revised July 17, 2008, attorney Brad Hattenbach has provided the required statement, certifying that with respect to the information disclosure statement filed on February 26, 2007, each item of information contained in the information disclosure 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 § 1.56(c) more than thirty days prior to the filing of the information disclosure statement. It is noted that attorney Hattenbach filed the IDS on February 26, 2007. The reduction of 132 days is being removed.

In view thereof, the determination of patent term adjustment at the time of the mailing of the notice of allowance is 520 days.

The $200.00 fee set forth in 37 CFR 1.18(e) was received on January 18, 2008. No additional fees are required on request for reconsideration of the decision mailed June 16, 2008.

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) 272-3219.



Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Day : Thursday

PALM INTRANET

Date: 8/7/2008
Time: 09:25:42

PTA Calculations for Application: 10/363892			
Application Filing Date:	03/07/2003	PTO Delay (PTO):	584
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	196
Post-Issue Petitions:	0	Total PTA (days):	520
PTO Delay Adjustment:	132		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
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56	11/02/2007	MAIL NOTICE OF ALLOWANCE	22		44
55	11/02/2007	MAIL EXAMINER'S AMENDMENT			
54	10/31/2007	ISSUE REVISION COMPLETED			
53	10/10/2007	LETTER REQUESTING INTERVIEW WITH EXAMINER			
52	09/29/2007	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
51	09/28/2007	DOCUMENT VERIFICATION			
50	09/28/2007	EXAMINER'S AMENDMENT COMMUNICATION			
49	09/28/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
48	09/27/2007	NOTICE OF ALLOWABILITY			
47	07/10/2007	MAIL ADVISORY ACTION (PTOL - 303)			
46	07/09/2007	ADVISORY ACTION (PTOL-303)			
45	06/14/2007	DATE FORWARDED TO EXAMINER			
44	06/11/2007	AMENDMENT AFTER FINAL REJECTION			
43	04/10/2007	MAIL FINAL REJECTION (PTOL - 326)	52		38
42	04/02/2007	FINAL REJECTION			
41	02/26/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
40.7	02/26/2007	ELECTRONIC INFORMATION DISCLOSURE STATEMENT		132	38
40	02/26/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
39	10/19/2006	DATE FORWARDED TO EXAMINER			
38	10/17/2006	RESPONSE AFTER NON-FINAL ACTION			
		MAIL EXAMINER INTERVIEW SUMMARY (PTOL			

37	10/05/2006	- 413)			
36	09/26/2006	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
35	09/25/2006	LETTER REQUESTING INTERVIEW WITH EXAMINER			
34	08/24/2006	MISCELLANEOUS INCOMING LETTER			
33	08/17/2006	MAIL NON-FINAL REJECTION			
32	08/16/2006	NON-FINAL REJECTION			
31	08/01/2006	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
30	07/27/2006	DATE FORWARDED TO EXAMINER			
29	07/21/2006	AMENDMENT AFTER FINAL REJECTION			
28	07/20/2006	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
27	05/24/2006	MAIL FINAL REJECTION (PTOL - 326)			
26	05/22/2006	FINAL REJECTION			
25	03/07/2003	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
24.7	03/07/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
24	03/07/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
23	03/16/2006	DATE FORWARDED TO EXAMINER			
22	03/03/2006	RESPONSE AFTER NON-FINAL ACTION		32	18
21	02/10/2006	MAIL NOTICE OF INFORMAL OR NON-RESPONSIVE AMENDMENT			
20	01/30/2006	NEW OR ADDITIONAL DRAWING FILED			
19	02/09/2006	DATE FORWARDED TO EXAMINER			
18.1	01/30/2006	INFORMAL OR NON-RESPONSIVE AMENDMENT AFTER EXAMINER ACTION			
18	01/30/2006	RESPONSE AFTER NON-FINAL ACTION		32	14
17	01/30/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
16	02/09/2006	CORRESPONDENCE ADDRESS CHANGE			
15	02/10/2006	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
14	09/29/2005	MAIL NON-FINAL REJECTION	510		-1
13	09/28/2005	NON-FINAL REJECTION			
12	08/09/2005	CASE DOCKETED TO EXAMINER IN GAU			
11	02/10/2005	MISCELLANEOUS INCOMING LETTER			

10	02/10/2005	MISCELLANEOUS INCOMING LETTER			
9	11/12/2004	CORRESPONDENCE ADDRESS CHANGE			
8	11/15/2004	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
7	07/28/2004	CASE DOCKETED TO EXAMINER IN GAU			
6	05/13/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
5	05/13/2004	CASE DOCKETED TO EXAMINER IN GAU			
4	10/11/2003	CLEARED BY OIPE CSR			
3	07/24/2003	APPLICATION DISPATCHED FROM OIPE			
2	07/24/2003	NOTICE OF DO/EO ACCEPTANCE MAILED			
1	03/07/2003	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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801 GRAND AVENUE
SUITE 3200
DES MOINES IA 50309-2721

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OFFICE OF PETITIONS

In re Application of :
FLUGRAD JR., DONALD R. et al :
Application No. 10/363,896 : DECISION DISMISSING PETITIONS
Filed: March 7, 2003 : UNDER 37 CFR 1.181 and 1.78(a)(6)
Attorney Docket No. P05311US1 :

This is a decision on the petition filed October 14, 2005 which is being treated under 37 CFR 1.181 to determine if a priority claim was proper and under 37 CFR §1.78(a)(6) to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of priority to the prior-filed provisional application set forth in the concurrently filed amendment.

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

The petition under 1.78(a)(6) is **DISMISSED**

As to the petition under 37 CFR 1.181

Petitioner requests Director review under 37 CFR 1.181 of whether the claim for priority was proper in this application.

The applicant was informed by the examiner in the Notice of Allowance action dated September 13, 2005 that the claim for priority to provisional application 60/231,115 is improper, and therefore not granted. Petitioner states that the claim for priority to the provisional application 60/231,115 and PCT/US01/27656 was set forth in the combined declaration filed on March 7, 2003. Therefore the priority claim was proper as evidenced by the filing receipt from the USPTO and any corrections to the priority claim would not require a petition or fees.

The original claim for priority is improper because 37 CFR 1.78(a)(5)(iii) requires the reference to the prior-filed provisional application 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(s) following the title.

Where a claim for priority under 37 CFR §1.78(a)(6) is not included in the first sentence of the specification or in an application data sheet, but does appear either in the oath or declaration or a transmittal letter filed with the application and the Office notes the claim for priority, no petition will be required to accept a late claim for priority. This is because the application would have been scheduled for publication on the basis of the information concerning the claim submitted elsewhere in the application within the time period set forth in 37 CFR §§ 1.78(a)(5)(ii). On the other hand, if the USPTO does not note the claim for priority to the prior-filed application set forth in the oath or declaration or transmittal letter submitted with the application, a petition will be required to accept a late claim for priority under 37 CFR §1.78(a)(6).

In the present situation, while the declaration filed with the application does present a priority claim to provisional application 60/231,115, the priority is claimed as a benefit under 35 U.S.C. 120. Since this application is also a national stage entry of PCT/US01/27656, there is confusion as to whether applicant desires to claim benefit of priority to the provisional application under 35 U.S.C. 119(e) or 120. Furthermore, the Office failed to correctly note the claim for priority to the prior-filed provisional application 60/231,115 as evidenced by the filing receipt incorrectly showing the provisional application as a foreign priority claim.

Since the reference to the prior-filed provisional application is not mentioned in either an application data sheet or the first line of the specification within the required time period, and the USPTO failed to correctly identify the proper claim for priority for provisional application 60/231,115, a petition would be required to accept a late claim for priority under §1.78(a)(6).

As to the petition 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 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.

The petition does not comply with item (1). It is unclear whether applicant desires to claim priority to the provisional application under either 35 U.S.C. §119(e) or 35 U.S.C. §120. A benefit claim that merely states "under 35 U.S.C. §119 and/or 35 U.S.C. §120" is indefinite. Since this application is a national stage entry of PCT/US01/27656 and no relationship is stated for the provisional application, it is assumed that applicant intends to claim §119(e) benefit;

however, this contradicts the priority claim under §120 set forth in the declaration filed on March 7, 2003.

If applicant intends to claim benefit under §119(e), the recommended language is "This application is a national stage entry of PCT/US01/27656 filed on September 6, 2001 which claims the benefit of U.S. Provisional Application No. 60/231,115 filed on September 8, 2000."

In view of the above, the amendment fails to comply with the provisions of 37 CFR 1.78(a)(6)(i) and is therefore unacceptable.

Before the petition under 37 CFR § 1.78(a)(6) can be granted, a renewed petition and either an Application Data Sheet or a substitute amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) to correct the above matters are required.

The issue fee in this case was paid on December 1, 2005. Therefore, it is conceivable that the application will issue before either the filing or the granting of a renewed petition under 37 C.F.R. §1.78(a)(6). In such case, submission of a certificate of correction (along with the fee under §1.20(a) and the processing fee under §1.17(i)) will be required as a condition for granting the petition under 37 C.F.R. §1.78(a)(6).

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

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

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

Any questions concerning this matter may be directed to Amelia Au at (571) 272-7414.

Frances Hicks
Lead Petitions Examiner
Office of Petitions

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AUG 15 2006

OFFICE OF PETITIONS

In re Application of :
DONALD R. FLUGRAD JR., et al. :
Application No. 10/363,896 : DECISION ON PETITION
Filed: March 7, 2003 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. P05311US1 :

This is a decision on the **renewed** petition under 37 CFR 1.78(a)(6), filed July 13, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **GRANTED.**

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

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

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

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

Any inquiries concerning this decision may be directed to Amelia Au at (571) 272-7414. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Frances Hicks
Lead 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	DRAWINGS	TOT CLMS	IND CLMS
10/363,896	03/07/2003	3682	1162	P05311US1	12	36	7

CONFIRMATION NO. 1869

22885
MCKEE, VOORHEES & SEASE, P.L.C.
801 GRAND AVENUE
SUITE 3200
DES MOINES, IA 50309-2721

CORRECTED FILING RECEIPT

OC000000019963091

Date Mailed: 08/09/2006

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

Applicant(s)

Donald R. Flugrad Jr., Ames, IA;
Abir Z. Qamhiyah, Ames, IA;

Power of Attorney: The patent practitioners associated with Customer Number **22885**.

Domestic Priority data as claimed by applicant

This application is a 371 of PCT/US01/27656 09/06/2001
which claims benefit of 60/231,115 09/08/2000

Foreign Applications

If Required, Foreign Filing License Granted: 08/09/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is
US10/363,896

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

SELF-ACTUATING, TRACTION-DRIVE SPEED CHANGER

Preliminary Class

476

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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Mailed: 6-2-06

In re application of	:	
Takashi Hashimoto et al.	:	DECISION ON
Serial No. 10/363,901	:	PETITION
Filed: March 10, 2003	:	

For: FUEL CELL SYSTEM FOR VEHICLE WHICH REQUIRES HUMIDIFICATION

This is a decision on the PETITION UNDER 37 CFR 1.181 FOR ENTRY OF THE AFTER FINAL AMENDMENT filed January 30, 2006.

On October 28, 2005, a final office action was mailed to Applicants, rejecting all of the pending claims under 35 USC 102 and 35 USC 103. Additionally, claims 1 and 2 were objected to for lacking proper antecedent basis. Applicants responded to this office action with an amendment after final which was filed on January 30, 2006. The examiner refused entry of the amendment in an advisory action mailed February 9, 2006.

On March 1, 2006, the instant petition under 37 CFR 1.181 was timely filed to request the entry of the after final amendment of January 30, 2006.

Petitioner's position is that the amendment after final did not raise any new issues as alleged by the examiner in the advisory action and that the amendment further reduces the issues 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(b)(3) is expected in all amendments after final rejection. An affidavit or other evidence filed after a final rejection, but before or on the same date of filing an appeal, may be entered upon a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented in compliance with 37 CFR 1.116(e). See 37 CFR 41.33 and MPEP § 1206 for information on affidavit or other evidence filed after appeal. 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. See also MPEP § 1206 and § 1211.

ACTION BY EXAMINER
See also MPEP § 706.07(f).
In the event that a 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. However, if the proposed amendment raises the issue of new matter, the examiner should identify the subject matter that would constitute new matter. If the proposed amendment presents new issues requiring further consideration and/or search, the examiner should provide an explanation as to the reasons why the proposed amendment raises new issues that would require further consideration and/or search. 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).

In the final rejection mailed October 28, 2005, claims 1 and 2 were objected to as lacking proper antecedent basis for the claim limitations "the steam partial pressure of the antifreeze," the supply gas," and "the exhaust gas." Additionally, the examiner requested Applicants' cooperation in amending the claims to provide proper antecedent basis for the above limitations. Applicants attempted to amend claims 1 and 2 in the after final amendment to correct the antecedent basis problem raised by the examiner in the final office action. The examiner stated in the advisory action that such an amendment would raise a new issue that would require a further search and/or consideration.

Petitioner argues that the proposed amendments to the claims were directed solely to formal matters addressing issues first raised by the examiner in the final office action. It is urged by petitioner that the after final amendment adopted the examiner's suggestions and removed issues from appeal. Further, petitioner argues that there was no earlier opportunity to amend claims 1 and 2 as the examiner did not object to these claims until the final office action. These arguments are persuasive

Because the after final amendment is directed to the correction of formal matters, does not present any new issues requiring further search and/ or consideration, and was made at the suggestion of the examiner, the denial of entry by the examiner was improper. Accordingly, the petition for entry of the after final amendment is **GRANTED.**

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

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#5

Nixon & Vanderhye P.C.
1100 North Glebe Road, 8th Floor
Arlington, VA 22201-4714

In re Application of :
Rice et al. :
US Application No.: 10/363,909 :
PCT Application No.: PCT/GB01/00236 :
International Filing Date: 22 January 2001 :
Priority Date: 21 January 2000 :
Attorney's Docket No.: 1626-4 :
For: PORPHYRINS AND RELATED :
COMPOUNDS :

DECISION ON PETITION FOR REVIVAL UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b), filed on 10 March 2003 in the above-captioned application, is hereby **GRANTED** as follows.

On 22 January 2001 (Monday), Applicants filed international application PCT/GB01/00236, which claimed priority of an earlier application filed on 21 January 2000. A copy of the international application was communicated from the International Bureau to the USPTO on 26 July 2001. A demand for international preliminary examination, in which the United States was elected, was filed on 21 August 2001, the end of the 19th month from the 21 January 2000 priority date. The period for paying the basic national fee is thus 30 months and ended at midnight on 21 July 2002.

The basic national fee required by 37 CFR 1.495(b) was not submitted on or before 22 July 2002 (Monday). The international application became abandoned as to the United States on 22 July 2002.

The instant petition encloses, *inter alia*:

(1) A transmittal letter for entry into the national stage in the United States under 35 U.S.C. 371, accompanied by the $900 basic national fee;

(2) The $1,300 petition fee;

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

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

The request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the national stage in the United States of America.

Also submitted with the petition were 3 declarations containing the following defects:

(1) Each declaration lists only 1 inventor, while each named inventor is required to execute a declaration that identifies the entire inventorship.

(2) The country of citizenship for inventor Lionel MILGROM is not identified in the declaration. 35 U.S.C. 115.

The declarations are thus not accepted.

The application is being returned to the National Stage Processing Division of the Office of PCT Operations for continued processing, including mailing of a "Notification of Missing Requirements under 37 CFR 371 in the United States Designated/Elected Office (DO/EO/US)" (Form PCT/DO/EO/905).

Leonard Smith
PCT Legal Examiner
PCT Legal Office

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

#8

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Arthur R. Crawford
NIXON & VANDERHYE P.C.
1100 North Glebe Road
8th Floor
Arlington, VA 22201-4714

In re Application of	:	
MANKU et al.	:	
Application No.:10/363,909	:	
PCT Application No.: PCT/GB01/00236	:	DECISION ON
International Filing Date: 22 January 2001	:	
Priority Date: 21 January 2000	:	PETITION
Attorney Docket No.: 1626-4	:	
For: PORPHYRINS AND RELATED COMPOUNDS	:	UNDER 37 CFR 1.137(b)

Applicants' "PETITION UNDER RULE 1.137(b) TO REVIVE UNINTENTIONALLY ABANDONED APPLICATION," filed 12 May 2004 is **GRANTED** as follows.

BACKGROUND

On 10 March 2003, applicants filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*,: the requisite basic national fee as required by 35 U.S.C. 371(c)(1), three separate executed declarations of the inventors, and a petition to revive under 37 CFR 1.137(b). The declaration executed by inventor Lionel Milgrom did not include the citizenship of the inventor.

On 25 August 2003, a decision was mailed granting the petition under 1.137(b) and indicating that the declaration was defective because "[e]ach declaration lists only 1 inventor, while each named inventor is required to execute a declaration that identifies the entire inventorship" and because "[t]he country of citizenship for inventor for Lionel Milgrom is not identified in the declaration."

On 03 October 2003, in response to the decision mailed 25 August 2003, the United States Designated/Elected Office (DO/EO) mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that the oath or declaration of the inventors was not in compliance with 37 CFR 1.497(a) and (b), as not being executed in accordance with 37 CFR 1.66 or 1.68 and as not identifying the citizenship of each inventor. The Notification required an oath or declaration of the inventors which is in compliance with 37 CFR 1.497(a) and (b), identifying the application by international application number and international filing date, and a Surcharge for providing the oath or declaration later than 30 months from the earliest priority date. Applicants were given two months from the mail date

of the Notification or 32 months from the priority date, whichever is later, in which to furnish the compliant declaration. The period for response to the Notification expired 03 December 2003, two months from the mail date of the Notification.

03 December 2003, the application became abandoned because applicants failed to respond to the Notification within the period for response.

On 12 May 2004, applicants filed the instant petition accompanied by, *inter alia*, a declaration of the inventors, which included the citizenship for the joint inventor Lionel Milgrom and which was signed by Lionel Milgrom, but not by the other joint inventors, and an authorized payment from their deposit account of $1330 for the petition fee and $130 for the surcharge for late filing of the declaration.

DISCUSSION

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

Regarding item (2) above, applicants have stated in the instant petition that "[t]he entire delay in prosecuting the case, i.e. filing of the attached declaration and paying the relevant fees, was unintentional." This statement is interpreted as a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional, which would satisfy 37 CFR 1.137(b)(3). If this is an incorrect interpretation in view of the rules, petitioner is required to provide a statement to that effect. With respect to item (3) above, applicants' payment of the petition fee of $1330 satisfies 37 CFR 1.137(b)(2). Regarding item (4) above, a terminal disclaimer is not required with the instant petition because the application was filed on or after 08 June 1995. Regarding item (1) above, the declaration of the inventors filed with the instant petition is considered to constitute a proper reply to the Notification of Missing Requirements since the declaration overcomes the defect identified in the Notification regarding the citizenship of inventor Lionel Milgrom. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

However, the declarations executed by inventors Manku and Rice are defective as not complying with 37 CFR 1.497(a)(3), which requires that the oath or declaration of the inventors identify each of the inventors.

CONCLUSION

The petition to revive the application abandoned under 37 CFR 1.137(b) is **GRANTED** as to the National Stage in the United States of America.

Applicant is given TWO (2) MONTHS from the mail date of this decision in which to submit a new oath or declaration of the inventors which is in compliance with 37 CFR 1.497(a) and (b) and which overcomes the defect indicated above. Failure to timely file the proper reply will result in ABANDONMENT of the application. Extensions of time may be obtained under 37 CFR 1.136(a).

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

Boris Milef
PCT Legal Examiner
PCT Legal Administration

Jim Foster
Detailee
PCT Legal Administration

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22 NOV 2004

#10

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1100 N GLEBE ROAD
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ARLINGTON VA 22201-4714

In re Application of	:	DECISION
MANKU et al.	:	
Application No.: 10/363,909	:	
PCT No.: PCT/GB01/00236	:	
Int. Filing Date: 22 January 2001	:	
Priority Date: 21 January 2000	:	
Attorney Docket No.: 1626-4	:	
For: PORPHYRINS AND RELATED COMPOUNDS	:	

This decision is in response to applicants' "PETITION TO ACCEPT DECLARATIONS OF INVENTORS AND PETITION TO SUSPEND THE RULES UNDER 37 C.F.R. §1.183" filed in the United States Patent and Trademark Office (USPTO) on 08 September 2004. The petition fee of $130 has been charged to Deposit Account 14-1140.

BACKGROUND

On 22 January 2001, applicants filed international application PCT/GB01/00236, which designated the United States and claimed a priority date of 21 January 2000. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 26 July 2001. A Demand for international preliminary examination, in which the United States was elected, was filed on 21 August 2001, which was within nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 22 July 2002 (21 July 2002 being a Sunday).

On 10 March 2003, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee, three declarations of inventors, and the instant "PETITION UNDER RULE 1.137(b) TO REVIVE UNINTENTIONALLY ABANDONED APPLICATION".

On 25 August 2003, a decision was mailed granting applicants' petition to revive under 37 CFR 1.137(b). The decision also indicated that the three declarations of inventors filed 25 August 2003 each listed only one inventor while each named inventor is required to execute a

declaration that identifies the entire inventorship and that the country of citizenship for Lionel Milgrom was not identified.

On 03 October 2003, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date were required.

On 12 May 2004, applicants filed a second "PETITION UNDER RULE 1.137(b) TO REVIVE UNINTENTIONALLY ABANDONED APPLICATION". The petition was accompanied by a declaration of inventors executed only by inventor Lionel Milgrom which identified all of the inventors and the citizenship of Mr. Milgrom.

On 16 July 2004, a decision was mailed granting applicants' second petition to revive under 37 CFR 1.137(b). The decision also indicated that the declarations filed 10 March 2003 and executed by Manku and Rice were defective as they failed to comply with 37 CFR 1.497(a)(3) which requires that the oath or declaration of the inventors identify each of the inventors. A two-month extendable time period was set for applicants to submit a new oath or declaration of the inventors which is in compliance with 37 CFR 1.497(a)-(b).

On 08 September 2004, applicants submitted the instant "PETITION TO ACCEPT DECLARATIONS OF INVENTORS AND PETITION TO SUSPEND THE RULES UNDER 37 C.F.R. §1.183".

DISCUSSION

The petition under 37 CFR 1.183 requests that 37 CFR 1.497(a)(3) be waived so that the defective declarations filed 10 March 2003 executed by Manku and Rice may be accepted. 37 CFR 1.183 states:

> 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 nearest approximation of an extraordinary circumstance cited by applicants is that it is believed that inventor Manku is not amenable to executing further documents in support of this application. However, a procedure for filing when a joint inventor refuses to join in an application is set forth in 37 CFR 1.47(a). A circumstance which can be overcome by following the appropriate rule is not considered an extraordinary circumstance.

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.183 is **DISMISSED** without prejudice.

Applicant is required to file a declaration of inventors in compliance with 37 CFR 1.497(a)-(b) within a time limit of ONE MONTH from the date of this decision or within the time remaining in the response set forth in the Decision mailed 16 July 2004, whichever is longer. No extension of this time limit may be granted under 37 CFR 1.136, but the period for response set in the Decision mailed 16 July 2004 may be extended under 37 CFR 1.136(a).

Failure to timely file a proper response will result in **abandonment** of the application.

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

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In re Application of	:	DECISION
MANKU et al.	:	
Application No.: 10/363,909	:	
PCT No.: PCT/GB01/00236	:	
Int. Filing Date: 22 January 2001	:	
Priority Date: 21 January 2000	:	
Attorney Docket No.: 1626-4	:	
For: PORPHYRINS AND RELATED COMPOUNDS	:	

This decision is in response to applicants' submissions filed 21 January 2005 and 02 June 2005.

BACKGROUND

On 22 January 2001, applicants filed international application PCT/GB01/00236, which designated the United States and claimed a priority date of 21 January 2000. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 26 July 2001. A Demand for international preliminary examination, in which the United States was elected, was filed on 21 August 2001, which was within nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 22 July 2002 (21 July 2002 being a Sunday).

On 10 March 2003, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee, three declarations of inventors, and the instant "PETITION UNDER RULE 1.137(b) TO REVIVE UNINTENTIONALLY ABANDONED APPLICATION".

On 25 August 2003, a decision was mailed granting applicants' petition to revive under 37 CFR 1.137(b). The decision also indicated that the three declarations of inventors filed 25 August 2003 each listed only one inventor while each named inventor is required to execute a declaration that identifies the entire inventorship and that the country of citizenship for Lionel Milgrom was not identified.

On 03 October 2003, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date were required.

On 12 May 2004, applicants filed a second "PETITION UNDER RULE 1.137(b) TO REVIVE UNINTENTIONALLY ABANDONED APPLICATION". The petition was accompanied by a declaration of inventors executed only by inventor Lionel Milgrom which identified all of the inventors and the citizenship of Mr. Milgrom.

On 16 July 2004, a decision was mailed granting applicants' second petition to revive under 37 CFR 1.137(b). The decision also indicated that the declarations filed 10 March 2003 and executed by Manku and Rice were defective as they failed to comply with 37 CFR 1.497(a)(3) which requires that the oath or declaration of the inventors identify each of the inventors. A two-month extendable time period was set for applicants to submit a new oath or declaration of the inventors which is in compliance with 37 CFR 1.497(a)-(b).

On 08 September 2004, applicants submitted a "PETITION TO ACCEPT DECLARATIONS OF INVENTORS AND PETITION TO SUSPEND THE RULES UNDER 37 C.F.R. §1.183".

On 22 November 2004, a decision was mailed dismissing applicants' petition under 37 CFR 1.183. The decision set a response period of one month from the date of the decision or within the time remaining in the response set forth in the Decision mailed 16 July 2004, whichever was longer and indicated that no extension of this time limit would be granted under 37 CFR 1.136, but that the period for response set in the Decision mailed 16 July 2004 could be extended under 37 CFR 1.136(a).

On 21 January 2005, applicants filed two executed declarations of inventors.

On 02 June 2005, applicants filed via facsimile transmission a copy of the two executed declarations filed 21 January 2005 along with a copy of a date-stamped postcard receipt. This submission has been treated as a petition under 37 CFR 1.181.

DISCUSSION

A five-month extension of time fee is required and has been charged to Deposit Account 14-1140.

The declarations of inventors filed 21 January 2005 are in compliance with 37 CFR 1.497(a)-(b). The declaration of inventors filed 12 May 2004 executed by inventor Lionel Milgrom is also in compliance with 37 CFR 1.497(a)-(b).

Petition Under 37 CFR 1.181

As noted above, the papers originally filed 21 January 2005 have been matched with the application file. Accordingly, the petition under 37 CFR 1.181 filed 02 June 2005 is moot.

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.181 is **DISMISSED** as **MOOT**.

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

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06 NOV 2003

#5

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In re Application of
MOON, Woo-chul *et al*
U.S. Application No.: 10/363,925
PCT No.: PCT/KR01/01528
Int. Filing Date: 10 September 2001
Priority Date: 09 September 2000
Attorney Docket No.: 047101/260720
For: MUTATED AQP, METHOD OF DETECTING CANCER . . .

DECISION ON PETITION UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a) filed 21 August 2003.

BACKGROUND

On 23 May 2003, the United States Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 indicating that an oath/declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge fee must be provided. Applicants were given two months to respond.

On 21 August 2003, applicants submitted a response which was accompanied by, *inter alia*, the instant petition; a declaration signed by ten of the eleven named joint inventors; a one-month extension and $55.00 fee; a $65.00 surcharge fee; a declaration by Mr. Sung Min Oh; and authorization to charge any additional fees to Deposit Account No. 16-0605.

[illegible] 00000005 160605 10363925
[illegible] 130.00 DA

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the required petition fee; (2) factual proof that the missing joint inventor refuses to execute the application or cannot be found or reached after diligent effort; (3) a statement of the last known address of the missing joint inventor; (4) and an oath or declaration executed by the signing joint inventor on his behalf and on behalf of the non-signing joint inventor. Applicants failed to satisfy item (2).

Concerning item (1), the $130.00 petition fee has been charged to Deposit Account No. 16-0605 as authorized.

With regard to item (3), the 37 CFR 1.47(a) applicant satisfies this requirement

by listing the last known address of the nonsigning co-inventor, Byung-gu Kim, as:

445-11, Suhovilla 101
Galhyunl Dong,
Eunpyungku,
122-051 Seoul,
Korea

Regarding item (4), the 37 CFR 1.47(a) applicant submitted a declaration signed by ten of the eleven joint inventors on behalf of the nonsigning joint inventor. All the inventors' names, residences, post office addresses and citizenship are typed on this declaration as required by section 409.03(a) of the MPEP. The declaration is also in compliance with 37 CFR 1.497(a) & (b).

Hence, items (1), (3) and (4) of 37 CFR 1.47(a) are satisfied.

Concerning item (2), the 37 CFR 1.47(a) applicant claims that Dr. Kim refuses to sign the declaration in the above-captioned application. Section 409.03(d) of the MPEP explains what is required to prove a refusal by an inventor and states, in part:

> A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney. . . . **It is reasonable to require that the inventor be presented with the application papers before a petition under 37 CFR 1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed.** . . .
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. **If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted**. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition. (Emphasis added).

Here, the 37 CFR 1.47(a) applicant submitted a declaration by Mr. Sung Min Oh who claims that Dr. Kim has expressly refused to sign any documents due to a dispute concerning compensation for the above-identified application.

However, the 37 CFR 1.47(a) applicant must also demonstrate that Dr. Kim has been presented with a complete copy of the application, including specifications, claims and drawings before the granting of a petition under 37 CFR 1.47(a). *See above.* There is no indication in the declaration by Mr. Oh that Dr. Kim has been given these documents.

In addition, the 37 CFR 1.47(a) applicant must also provide documentary evidence to confirm the facts alleged in the petition. For example, copies of any letters or e-mails between Dr. Kim (or his legal representative) and Goodgene regarding the compensation issue is required. These documents would confirm the statements in the declaration by Mr. Sung Min Oh. If there are no documents available, that fact must also be attested by someone having firsthand knowledge of the situation. Any foreign language documents must be accompanied by an English translation. For these reasons, item (2) of 37 CFR 1.47(a) is not yet satisfied.

Accordingly, it is not appropriate to accept this application under 37 CFR 1.47(a) at this time.

CONCLUSION

The petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. No additional petition fee is required. Extensions of time are 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.

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Charlotte, NC 28280-4000

In re Application of :
MOON, Woo-chul *et al* :
U.S. Application No.: 10/363,925 :
PCT No.: PCT/KR01/01528 :
Int. Filing Date: 10 September 2001 :
Priority Date: 09 September 2000 :
Attorney Docket No.: 047101/260720 :
For: MUTATED AQP, METHOD OF DETECTING CANCER . . . :

DECISION ON RENEWED PETITION UNDER 37 CFR 1.47(a)

This is a decision on the "Renewed Petition Under 37 CFR § 1.47(a) . . ." filed 05 January 2004. No fee is required.

BACKGROUND

On 06 November 2003, a decision dismissing applicants' petition under 37 CFR 1.47(a) was mailed because applicants failed to satisfy item (2) of 37 CFR 1.47(a). Applicants were given two months to respond.

On 05 January 2004, applicants filed the instant renewed petition which was accompanied by, *inter alia*, a supplemental declaration by Mr. Sung Min Oh and copies of certified mail receipts with English translations.

DISCUSSION

In the decision dated 06 November 2003, the 37 CFR 1.47(a) applicant failed to demonstrate a refusal by the nonsigning joint inventor, Dr. Kim. The 37 CFR 1.47(a) applicant was requested to show that Dr. Kim has been presented with a complete copy of the application, including specifications, claims and drawings before the granting of a petition under 37 CFR 1.47(a). Documentary evidence was also solicited.

In the renewed petition, the 37 CFR 1.47(a) applicants provided a supplemental declaration of Mr. Sung Min Oh and included copies of registered mail receipts with English translations. In the supplemental declaration, Mr. Oh states that he contacted the nonsigning inventor on 27 October 2003 requesting a current mailing address so that he could send him a complete copy of the application papers in the above-captioned application.

Mr. Oh claims that Dr. Kim refused to receive them. After several attempts by telephone to have Dr. Kim receive the documents, Mr. Oh "sent a complete copy of the application papers to Dr. Kim's last known mailing address" via registered mail. Mr. Oh claims that a relative of Dr. Kim received the documents but that the nonsigning joint inventor has not answered his telephone. Copies of the registered mail receipts were submitted with the renewed petition showing that the documents were delivered on 14 November 2003.

The testimonial and documentary evidence presented is sufficient to show a refusal to cooperate by the nonsigning joint inventor in the above-captioned application and meets the requirements of section 409.03(d) of the MPEP. Thus, item (2) of 37 CFR 1.47(a) is now satisfied.

All the requirements of 37 CFR 1.47(a) are complete.

CONCLUSION

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

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 10 September 2001 under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 05 January 2004.

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the non-signing inventors at their last known address of record and will be published in the Official Gazette.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (703) 308-6457

26 MAR 2004

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Galhyunl Dong,
Eunpyungku,
122-051 Seoul,
Korea

In re Application of
MOON, Woo-chul *et al*
U.S. Application No.: 10/363,925
PCT No.: PCT/KR01/01528
Int. Filing Date: 10 September 2001
Priority Date: 09 September 2000
Attorney Docket No.: 047101/260720
For: MUTATED AQP, METHOD OF DETECTING CANCER . . .

Mr. Kim:

You are named as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. § 116. Should a patent be granted, you will be designated as an inventor.

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

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#3

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01 JUL 2003

James N. Kallis
Brooks & Kushman, P.C.
1000 Town Center, 22nd Floor
Southfield, MI 48075

In re Application of :
FOLDES :
U.S. Application No.: 10/363,927 : DECISION ON PETITION
PCT No.: PCT/HU01/00075 :
Int. Filing Date: 03 July 2001 : UNDER 37 CFR 1.137(b)
Priority Date: 13 July 2000 :
Attorney Docket No.: SBGK0103PUSA :
For: ROTATIVE INCINERATOR :

The petition to revive under 37 CFR 1.137(b) filed 07 March 2003 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the U.S. National Phase of the PCT application until the filing of this petition was unintentional" and the prompt filing of the petition satisfies the requirement of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has now provided payment of the full, U.S. Basic National fee and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

As authorized, the $65.00 small entity surcharge for filing an oath or declaration of the inventor later than thirty months from the priority date will be charged to Deposit Account No.: 02-3978.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision. The 35 U.S.C. 371(c) date is **07 March 2003**.

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29 JUL 20

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Gregory P. Bondarenko
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Grand Rapids, MI 49503-2487

In re Application of DE MELLO et al
U.S. Application No.: 10/363,928
PCT Application No.: PCT/GB01/04112
Int. Filing Date: 13 September 2001
Priority Date Claimed: 13 September 2000
Attorney Docket No.: (none)
For: CHEMICAL PROCESSING SYSTEM AND METHOD

DECISION

This is in response to applicant's "Submission of an Executed National Stage Declaration Naming an Inventive Entity Different from the Inventive Entity in the International Application Under 37 C.F.R. §1.497(d)" filed 17 July 2003.

BACKGROUND

On 13 September 2001, applicant filed international application PCT/GB01/04112, which claimed priority of an earlier United Kingdom application filed 13 September 2000. A copy of the international application was communicated to the USPTO from the International Bureau on 21 March 2002. The thirty-month period for paying the basic national fee in the United States expired on 13 March 2003.

On 07 March 2003, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 14 May 2003, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that a properly executed oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 17 July 2003, applicant filed the present petition under 37 CFR 1.497(d).

DISCUSSION

37 CFR 1.497(d) (effective 07 November 2000) states,

> If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, the oath or declaration must be accompanied by: (1) a statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part; (2) the processing fee set forth in § 1.17(i); and (3) if an assignment has been executed by any of the original named inventors, the written consent of the assignee (see § 3.73(b) of this chapter).

With regard to item (1) above, applicant has provided the requisite statement.

With regard to item (2) above, the requisite processing fee has been provided.

With regard to item (3) above, applicant has provided the written consent of the assignee along with documentary evidence of a chain of title from the original owner to the assignee.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.497(d) is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 13 September 2001, and a date under 35 U.S.C. 371(c) of 17 July 2003.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision

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OFFICE OF PETITIONS

In re Patent No. 6,945,346 :
Joachim Massen :
Issue Date: September 20, 2005: LETTER REGARDING
Application No. 10/363,932 : PATENT TERM ADJUSTMENT
Filed: March 7, 2003 :
Attorney Docket No. 4458/PCT :

This is in response to the REQUEST FOR REVIEW OF PTA DETERMINATION filed September 28, 2005, pursuant to patentee's duty of good faith and candor. Patentee asserts that the patent term adjustment indicated in the patent of one hundred forty-nine (149) days is incorrect and the correct calculation is sixty-eight (68) days.

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

On September 20, 2005, the above-identified application matured into U.S. Patent No. 6,945,346, with a revised Patent Term Adjustment of 149 days. Patentee asserts that the revised patent term adjustment indicated in the patent omits a reduction of 68 days for the filing of a supplemental declaration on June 30, 2005.

A review of the record confirms that the patent term adjustment indicated in the patent includes a reduction of 2 days pursuant to 37 CFR 1.704(c)(10) for the filing of the supplemental declaration. No additional reduction is warranted.

In view thereof, the patent properly issued with a revised patent term adjustment of 149 days.

As this letter was submitted as an advisement to the Office of an error in Patentee's favor, the Office will not assess the $200.00 fee under 37 CFR 1.18(e). The Office thanks patentee for their good faith and candor in bringing this to the attention of the Office.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

13 JAN 2005

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David J. Alexander
Atofina Petrochemicals, Inc.
P.O. Box 674412
Houston, Texas 772267-4412

In re Application of :
VANDEURZEN et al. :
Application No.: 10/363,972 :
PCT No.: PCT/EP01/10350 :
Int. Filing: 07 September 2001 : DECISION ON PETITION
Priority Date: 08 September 2000 :
Attorney Docket No.: 31223-84833 :
For: CONTROLLED RHEOLOGY POLYPROPYLENE HETEROPHASIC COPOLYMERS :

This decision is in response to applicants' "Petition for Revival of an Application for Patent Abandoned Unintentionally under 37 CFR 1.137(b)" and "Petition under 37 CFR 1.47(a)" filed 14 December 2004 in the above-captioned application. The requisite $1500 petition fee for the filing of a petition under 37 CFR 1.137(b) and the requisite $130 petition fee have been submitted. The above captioned national stage application became abandoned on 30 July 2003 for failure to submit an acceptable oath or declaration within the time period set forth in the Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) mailed 30 May 2003.

BACKGROUND

On 07 September 2001, applicants filed international application PCT/EP01/10350, which claimed a priority date 08 September 2000. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 14 March 2002. Pursuant to 37 CFR 1.495, the period for paying the basic national fee in the United States expired 30 months from the priority date, 08 March 2003.

On 08 March 2003, applicants filed a transmittal letter for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a copy of the international application; and a preliminary amendment.

On 30 May 2003, the United Stated Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

Application No.: 10/363,972

On 14 December 2004, applicants filed a "Petition for Revival of an Application for Patent Abandoned Unintentionally under 37 CFR 1.137(b)" and a petition under 37 CFR 1.47(a).

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional delay must be accompanied by: (1) the required reply, (2) the petition fee required by law, (3) a statement that the "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional," and (4) any terminal disclaimer and fee required pursuant to 37 CFR 1.137(c). Applicants have satisfied Items (2)-(4).

In order to comply with the proper response requirement of item (1) above for revival under 37 CFR 1.137(b), applicants submitted the present Petition Under 37 CFR 1.47(a). Under the present circumstances, in order for the response requirement, item (1) above, to be satisfied, the petition to accept the application without the signature of Phillipe Vandeurzen must be grantable.

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and behalf of the non-signing joint inventor. Items (1), (3), and (4) have been satisfied.

Regarding item (2) above, petitioner states that Phillipe Vandeurzen cannot be found or reached after diligent effort. Section 409.03(d) of the Manual of Patent Examining Procedure (M.P.E.P.), **Proof of Unavailability or Refusal**, states, in part:

> Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, an affidavit or declaration of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made.
>
> The fact that a nonsigning inventor is on vacation or out of town and is therefore temporarily unavailable to sign the declaration is not an acceptable reason for filing under 37 CFR 1.47. Such a petition will be dismissed as inappropriate.
>
> The affidavit or declaration of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted.
>
> Copies of documentary evidence such as certified mail return receipt, cover letter of instructions, telegrams, etc., that support a finding that the nonsigning inventor could not be found or reached should be

> made part of the affidavit or declaration. It is important that the affidavit or declaration contain statements of fact as opposed to conclusions.
>
> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of this refusal must be specified in an affidavit or declaration by the person to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.

A review of the present petition reveals that applicants have not provided an acceptable showing that a diligent effort was made to reach the non-signing inventor, Phillipe Vandeurzen. The Declaration of Michael Roufosse states that, "Phillipe Vandeurzen . . . cannot be found or reached after a diligent effort. We have, on a number of occasions attempted to locate Mr. Vandeurezen, the last such effort occurring on or about October 28, 2004," however, no documentary evidence to support the attempt(s) was provided with the declaration. As stated above, copies of documentary evidence such as a certified mail return receipt, cover letter of instruction, telegrams, etc., should be supplied by a person having firsthand knowledge of the facts. Applicant must show that alternative means were employed, such as a search of telephone and/or Internet directories, in an attempt to locate Philippe Vandeurzen.

For the above reasons, it would not be appropriate to accept this application without the signature of Philippe Vandeurzen at this time.

CONCLUSION

The petition under 37 CFR 1.137(b) is **DISMISSED** without prejudice and the application remains **ABANDONED**.

The petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTH** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a) and 37 CFR 1.137(b)." No additional petition fee is required.

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

Anthony Smith
Attorney-Advisor
Office PCT Legal Administration
Tel.: 571-272-3298
Facsimile: 571-273-0459

11 FEB 2005

#9

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David J. Alexander
Atofina Petrochemicals, Inc.
P.O. Box 674412
Houston, Texas 772267-4412

In re Application of :
VANDEURZEN et al. :
Application No.: 10/363,972 :
PCT No.: PCT/EP01/10350 :
Int. Filing: 07 September 2001 : DECISION ON PETITION
Priority Date: 08 September 2000 :
Attorney Docket No.: 31223-84833 :
For: CONTROLLED RHEOLOGY POLYPROPYLENE HETEROPHASIC COPOLYMERS :

This decision is in response to applicants' "Request to Reconsideration" filed 10 February 2005, which is being treated as a Renewed Petition under 37 CFR 1.47(a) and 37 CFR 1.137(b).

The petition for status under 37 CFR 1.47(a) is moot since the declaration filed 10 February 2005 with the present renewed petition was executed by the named inventor, the previous non-signing inventor, Philippe Vandeurzen. The declaration filed 10 February 2005 is acceptable under 37 CFR 1.497. For the reasons above, the renewed petition under 37 CFR 1.47(a) is **DISMISSED** as MOOT.

Applicants' statement that the "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicants have submitted an executed declaration and power of attorney and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America. The petition under 37 CFR 1.137(b) is **GRANTED**.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision.

Anthony Smith

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Attorney-Advisor
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Richard F. Lemuth
Shell Oil Company
Intellectual Property
P. O. Box 2463
Houston, TX 7252-2463

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MAR 1 1 2005

OFFICE OF PETITIONS

In re Application of :
Frederik Damhof, et al. :
Application No. 10/363,975 : ON PETITION
Filed: March 7, 2003 :
Attorney Docket No. TS6257 US :

This is a decision on the petition filed November 22, 2004, under 37 CFR 1.137(a), which is being treated as a petition under 37 CFF 1.137(b), to revive the above-identified application.

The petition is **GRANTED**.

Petitioner filed the instant petition under 37 CFR 1.137(a), but petitioner submitted the unintentional petition fee and presented a statement pertaining to unintentional delay. In view thereof, the petition is being properly treated as one under 37 CFR 1.137(b).

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Since the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

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

The application file is being referred to Technology Center 3600.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/16/08

TO SPE OF : ART UNIT 1626

SUBJECT : Request for Certificate of Correction for Appl. No.: 10363988 Patent No.: 7205333 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

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: 1. colum 8, line 38, should read "cannot be OH, or $N(R^3)_2$"

2. Column 63, line 32, after "selected from", should read "OH, $N(R^3)_2$"

3. Column 63, line 64, after "cannot be OH", should

4. claim 10 (see column) read "or $N(R^3)_2$" is not consistant with the specification (see column 8).

SPE Joseph KMcKane Art Unit 1626

SPE. AU. 1626

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H4

WHITHAM, CURTIS &
CHRISTOFFERSON
11491 Sunset Hills Road, Suite 340
Reston, VA 20190

In re Application of
DENT et al.
Application No.: 10/363,993
PCT No.: PCT/US01/30508
Int. Filing Date: 28 September 2001
Priority Date: 28 September 2000
Attorney Docket No.: 02940169AA
For: TUMOR CELL KILLING BY CELL CYCLE CHECKPOINT ABROGATION COMBINED WITH INHIBITION OF THE CLASSICAL MITOGEN ACTIVATED PROTEIN (MAP) KINASE PATHWAY

: DECISION ON REQUEST
: UNDER 37 CFR 1.497(d)

This is a decision on applicants' "Request to Correct Inventorship under 37 CFR 1.497(d)", filed on 04 November 2003 in the United States Patent and Trademark Office (USPTO). Petitioner seeks to add Chunrong Yu as inventor in the above referenced application. The requisite $130 petition fee was paid. The $130 surcharge for filing the declaration after the 30 month period was also paid. Applicant requests a one month extension of time, which is granted. Applicant also requests the correction of inventor Dai's first name.

BACKGROUND

On 10 March 2003, applicants filed a declaration along with their request for entry into the national stage under 35 U.S.C. 371. The executed declaration, identifying PCT/US01/30508 named Paul Dent, Steven Grant, Robert McKinsty, Yun Dai and Chunrong Yu as inventive entities. The unexecuted declaration identified the inventors named in the international application publication and Chunrong Yu, who was not named as an inventor in the published international application.

On 24 August 2003, a Notification of Missing Requirements was mailed to applicants, indicating that an oath or declaration of the inventors was not executed in accord with 37 CFR 1.66 or 37 CFR 1.68.

On 04 November 2003, in response to the Notification of Missing Requirements, applicants filed a request for correction of inventorship under 37 CFR 1.497(d), to add inventor Chunrong Yu. In addition to the $130 petition fee, Petitioner provided the statement of the inventors and Mr. Yu in support of the correction of inventorship under 37 CFR 1.497(d) and the written consent of the assignee. An declaration executed by the joint inventors was also submitted.

DISCUSSION

37 CFR 1.497(d) states, in part:

> (d) If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set

forth in the international application, the oath or declaration must be accompanied by:

> (1) A statement from each person being added as an inventor . . . that any error in inventorship in the international application occurred without deceptive intention on his or her part;
>
> (2) The processing fee set forth in § 1.17(I); and
>
> (3) If an assignment has been executed by any of the original named inventors, the written consent of the assignees.

Applicants provided a statement, signed by Chunrong Yu and the joint inventors, stating that "the error in identifying the inventorship in the present application occurred without deceptive intent" on the part of the joint inventors. This statement satisfies item (1) of 37 CFR 1.497(d).

The processing fee of $130.00 has been paid, satisfying Item (2) above.

With regard to Item (3), the statement also included a "Consent of Assignee" signed by Dr. Richard Franson, "President of the VCU- Intellectual Property Foundation for Virginia Commonwealth University". Dr. Franson also states that he "has authority over intellectual property matters involving Virginia Commonwealth University and is able to provide consent on behalf of the University for this change in inventorship". Dr. Franson states that the assignee "consents to the change in inventorship in the above identified application" adding Chunrong Yu as joint inventor. The Consent of Assignee satisfies item (3) above.

Accordingly, applicants have met all of the requirements to add Mr. Yu as co-inventor in the above-identified international application. The declaration submitted on 04 November 2003 satisfies the requirements of 37 CFR 1.497.

Applicant also requests that inventor Dai's first name be corrected from Yum toYun, due to a typographical error. Applicant's request to correct inventor **Yun** Dai's first name is granted.

CONCLUSION

For the reasons discussed above, the submission under 37 CFR 1.497(d) to add Mr. Yu as co-inventor is hereby **GRANTED**. The correction of inventor Yun Dai's first name is granted.

The application will be forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is **04 November 2003.**

Cynthia M. Kratz
Attorney Advisor
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#3

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08 SEP 2003

Fleshner & Kim, LLP
14500 Avion Parkway, Suite 125
Chantilly, VA 20151

In re Application of	:	
Leddy et al.	:	
Application No. 10/363,996	:	DECISION ON
PCT No.: PCT/US01/19368	:	
Int. Filing Date: 19 June 2001	:	PETITION UNDER
Priority Date: 19 June 2000	:	
Atty. Docket No.: UIOWA-038 PCT	:	37 CFR 1.137(b)
For: New Metallic Materials, Metallic	:	
Particles And Methods Of Making Same	:	

This is in response to the petition under 37 CFR 1.137(b) filed on 28 February 2003.

BACKGROUND

This international application was filed on 19 June 2001, claimed earliest priority of an application filed on 19 June 2000, and designated the U.S. A Demand electing the United States was filed prior to the elapse of 19 months from the priority date. Accordingly, the 30 month time period for paying the basic national fee in the United States expired at midnight on 19 December 2002. This international application became abandoned with respect to the United States for failure to timely pay the required basic national fee.

DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed; (2) the petition fee as set forth in § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Regarding requirement (1), the petition was not accompanied by the required reply in the form of the basic national fee; therefore, requirement (1) has not been met.

Regarding requirement (2),the petition was accompanied by the petition fee.

Regarding requirement (3), the petition includes a statement that "The undersigned, attorney for the Applicant, has been advised by the Applicant and therefore is informed and believes that the delay in entering the national stage in the United States Patent and Trademark Office from the due date for entering the national phase in the United States until the date of

this Petition was unintentional by the Applicant." This statement is being construed as a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Petitioner must notify the Patent and Trademark Office if such an interpretation of the statement in the petition is not correct. Thus, the statement in the petition is being accepted in satisfaction of 37 CFR 1.137(b)(3).

Regarding requirement (4), no terminal disclaimer is required because the international filing date of this application is later than 8 June 1995.

DECISION

For the reasons indicated above, the petition under 37 CFR 1.137(b) is **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Please direct any further correspondence with respect to this matter to 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.

Leonard Smith
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
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PCT Legal Office
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Fax: (703) 308-6459

28 MAY 2004

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Fleshner & Kim, LLP
14500 Avion Parkway, Suite 125
Chantilly, VA 20151

In re Application of	:	
Leddy et al.	:	
Application No. 10/363,996	:	DECISION ON
PCT No.: PCT/US01/19368	:	
Int. Filing Date: 19 June 2001	:	PETITION UNDER
Priority Date: 19 June 2000	:	
Atty. Docket No.: UIOWA-038 PCT	:	37 CFR 1.137(b)
For: New Metallic Materials, Metallic	:	
Particles And Methods Of Making Same	:	

This is in response to the renewed petition under 37 CFR 1.137(b) filed on 26 April 2004.

DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed; (2) the petition fee as set forth in § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Regarding requirement (1), the renewed petition is accompanied by the required reply in the form of the basic national fee; therefore, requirement (1) has been satisfied. Moreover, as discussed in the previous Decision mailed on 08 September 2003, requirements (2), (3) and (4) have already been satisfied by the petition filed on 28 February 2003. Accordingly, it would now be appropriate to grant the petition.

DECISION

For the reasons indicated above, the petition under 37 CFR 1.137(b) is **GRANTED**.

The Declaration of the inventors is defective in that it appears to have been assembled from portions of the declarations signed by the inventors. Applicants are required to file complete copies of the declarations as signed by the inventors, not just the sheets bearing the signatures.

This application is being forwarded to the National Stage Processing Branch for further processing, including the preparation and mailing of a Notification of Missing

Requirements (Form PCT/DO/EO/905) requiring the submission of an acceptable oath or declaration.

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

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13 AUG 2003

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Moore & Hansen
2900 Wells Fargo Center
90 South Seventh Street
Minneapolis, MN 55402

In re Application of	:	
Price et al.	:	
US Application No.: 10/363,999	:	**DECISION ON**
PCT Application No.: PCT/US01/11957	:	**PETITION FOR REVIVAL**
International Filing Date: 12 April 2001	:	**UNDER 37 CFR 1.137(b)**
Priority Date: 12 April 2000	:	
Attorney's Docket No.: A45-006-04-US	:	
For: MORTARLESS WALL STRUCTURE	:	

The petition to revive under 37 CFR 1.137(b), filed on 28 February 2003 in the above-captioned application, is hereby **GRANTED** as follows.

BACKGROUND

On 12 April 2001, Applicants filed international application PCT/US01/11957, which claimed priority of an earlier application filed on 12 April 2000. A copy of the international application was communicated from the International Bureau to the USPTO on 25 October 2001. A demand for international preliminary examination, in which the United States was elected, was filed on 12 September 2001, prior to 12 November 2001, expiration of nineteen months from the 12 April 2000 priority date. The thirty-month period for entering the national stage ended at midnight on 12 October 2002.

The basic national fee required by 37 CFR 1.495(b) was not filed on or before 15 October 2002 (Tuesday), with 14 October 2002 (Monday) being a Federal holiday. The international application became abandoned as to the United States on 13 October 2002.

ANALYSIS

The instant petition is accompanied by:

(1) A transmittal letter for entry into the national stage in the United States (Form PTO-1390), accompanied by the $360 basic national fee (small entity) required by 35 U.S.C. 371(c)(1) and 37 CFR 1.495(a)(1);

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

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

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

CONCLUSION

In view of the above, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the national stage in the United States of America.

The petition encloses a declaration in compliance with 37 CFR 1.497(a) and (b), and the $65 surcharge (small entity) for late filing of an acceptable oath or declaration. Applicants have met the requirements of 37 CFR 1.495 for acceptance into the national stage under 35 U.S.C. 371(c). Consequently, the application has an international filing date of 12 April 2001, and a 35 U.S.C. 371 date of 28 February 2003. However, the Office notes that the Form PTO-1390 filed with the instant petition indicates an international filing date of 20 September 2000, which is incorrect.

The application is being returned to the National Stage Processing Division of the Office of PCT Operations for continued processing.

Leonard Smith
PCT Legal Examiner
PCT Legal Office

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

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OFFICE OF PETITIONS

Norris Mclaughlin & Marcus
220 East 42nd Street
30th Floor
New York NY 10017

Applicant: Kaiser et al.
Appl. No.: 10/364,000
International Filing Date: July 21, 2001
Title: WATER SOLUBLE PACKAGES CONTAINING LIQUID COMPSITIONS
Attorney Docket No.: 102792 (10560P4)
Pub. No.: US 2005/0026806 A1
Pub. Date: February 3, 2005

This is in response to the Request for Corrected Publication under 37 CFR 1.221(b), which was received on March 28, 2005.

The request is DISMISSED.

The instant request is that the patent application publication be republished because the publication includes a material error in that it did not include the preliminary amendment to the claims, which was filed on February 24, 2003.

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

The patent application publication does not include a mistake in the publication by the Office because patent application publications are not required to include preliminary amendments, according to 37 CFR 1.215(a)[2], which says the following, in part:

---

[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]Changes to Suport Implementation of the United States Patent and Trademark Office 2st Century Strategic Plan; Final Rule, 69 FR 56482 (Sept. 21, 2004).

> (a) ... The patent application publication will be based upon the specification and drawings deposited on the filing date of the application, as well as the executed oath or declaration submitted to complete the application. The patent application publication may also be based upon amendments to the specification (other than the abstract or the claims) that are reflected in a substitute specification under Sec. 1.125(b), amendments to the abstract under Sec. 1.121(b), amendments to the claims that are reflected in a complete claim listing under Sec. 1.121(c), and amendments to the drawings under Sec. 1.121(d), provided that such substitute specification or amendment is submitted in sufficient time to be entered into the Office file wrapper of the application before technical preparations for publication of the application have begun.

§ 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, provided that applicant supplies such a copy in compliance with the Office electronic filing system requirements within one month of the mailing date of the first Office communication that includes a confirmation number for the application, or fourteen months of the earliest filing date for which a benefit is sought under title 35, United States Code, whichever is later.

While the patent application publication may now include a preliminary amendment to the claims, the Office is not required to use the preliminary amendment. The Office has recently changed the procedures for publication of patent applications so as to publish applications as amended, when possible. Until this past year, patent application publications were published as originally filed. See Patent Application Publications May Now Include Amendments, 1281 Off. Gaz. Pat. Office Notices 53 (April 13, 2004). The applicant did not supply a copy of the application in compliance with § 1.215(c). The Office correctly published the application in accordance with § 1.215(a).

Applicant is reminded of his duty to conduct a reasonable inquiry before filing a paper before the Office. See MPEP 410.

Applicant's request for a corrected patent application publication on March 28, 2005, 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.

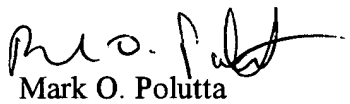
The request for republication is being treated as request for corrected publication under 37 CFR 1.221(b), as argued by applicant not a request under 37 CFR 1.221(a). The publication fee ($300) and processing fee ($130) paid by applicant for a request for republication under

37 CFR 1.221(a) will be refunded to applicant's deposit account (14-1263).

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system and questions should be addressed as follows:

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

Inquires concerning this communication should be directed to Mark Polutta at (571) 272-7709.



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

UNITED STATES PATENT AND TRADEMARK OFFICE

16 SEP 2009

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

LERNER GREENBERG STEMER LLP
P O BOX 2480
HOLLYWOOD FL 33022-2480

In re Application of:	:	
GREULICH, Manuel, et al.	:	DECISION ON PETITION
U.S. Application No.: 10/364,004	:	
U.S. Patent No.: 6952658	:	
Filing Date: February 10, 2003	:	
Atty Docket No.: Mp.Nr.00/616	:	
For: SYSTEM FOR DETERMINING FAULT CAUSES	:	

This is a decision on the "Petition To Accept An Unintentionally Delayed Claim Under 35 U.S.C. 120" filed July 23, 2009.

The petition is **DISMISSED** without prejudice.

The above-captioned U.S. patent issued from an application filed after November 29, 2000, and the claim herein for the benefit of priority under 35 U.S.C. 120 to the prior-filed international application is submitted after the expiration of the time period specified in 37 CFR 1.78(a)(2)(ii). Accordingly, the present application is properly considered under 37 CFR 1.78(a)(3). See MPEP section 1481.03.

A 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) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in 37 CFR 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 present petition fails to comply with item (1) above.

37 CFR 1.78(a)(2)(iii) states that the required reference to the prior-filed application(s) "must be included in an application data sheet (37 CFR 1.76) or the specification must be amended to contain such reference in the first sentence(s) following the title." Petitioner has not provided an accompanying amendment to the specification of the application or an ADS. Accordingly, petitioner has not provided the reference to the prior-filed applications in the form required by 37

CFR 1.78. Moreover, it is noted that even if the petitioner included an amendment or ADS consistent with the Certificate of Correction, the petition could not be granted. This is because the reference set forth in the Certificate of Correction is not in proper form. Specifically, the reference does not properly set forth the relationship between the present application and the prior-filed application as required (i.e., continuation, continuation-in-part, or divisional). The term "continuing" used by applicants in the Certificate of Correction is not a recognized term for stating the relationship between the applications. See MPEP section 201.11(III)(A) (emphasis added):

> benefit claims under 35 U.S.C. 120, 121, and 365(c) must identify the prior application by application number, or by international application number and international filing date, and indicate the relationship between the applications. See 37 CFR 1.78(a)(2)(i). The relationship between the applications is whether the instant application is a continuation, divisional, or continuation-in-part of the prior nonprovisional application. An example of a proper benefit claim is "this application is a continuation of prior Application No. ---, filed ---." A benefit claim that merely states that "this application claims the benefit of Application No. ---, filed ---" does not comply with 35 U.S.C. 120 and 37 CFR 1.78(a)(2)(i), since the relationship between the applications is not stated. In addition, **a benefit claim that merely states that "this application is a continuing application of Application No. ---, filed ---" does not comply with 35 U.S.C. 120 and 37 CFR 1.78(a)(2)(i) since the proper relationship, which includes the type of continuing (i.e., continuation, divisional, or continuation-in-part) application, is not stated.**

With respect to item (2), the applicable surcharge for the present petition is $1,410. Applicants have submitted $130 with the present petition. Pursuant to the authorization included with applicants' submission, Deposit Account No. 12-1099 will be charged the additional $1,280 required to complete the applicable surcharge. Based on this surcharge, item (2) is satisfied.

With respect to item (3), the present petition includes the required statement of unintentional delay. Item (3) is therefore satisfied.

Based on the above, before the petition under 37 CFR 1.78(a)(3) can be granted, a renewed petition under 37 CFR 1.78(a)(3) must be submitted. The renewed petition must include: (1) an amendment to the specification[1] or Application Data Sheet ("ADS") which properly sets forth the relationship between the present application and the prior-filed international application (i.e.: "this application is a continuation under 35 U.S.C. 120 of international application PCT/EP00/07730, filed August 09, 2000, which designates the United States"); and (2) a revised Certificate Of Correction which properly sets forth the relationship of the applications, consistent with the proposed amendment or ADS.

It is noted that the requested Certificate of Correction was previously issued by the USPTO. Based on the present decision, the entry of the Certificate of Correction was improper. Accordingly, the Certificate of Correction issued August 25, 2009 is hereby **VACATED**.

---

[1] *Note* 37 CFR 1.121

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

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

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

By fax: (571) 273-0459
ATTN: Office of PCT Legal Administration

Electronically: Via EFS-Web

Any questions concerning this matter may be directed to Richard M. Ross at (571) 272-3296.

Bryan Lin

Bryan Lin
Legal Examiner
Office of PCT Legal Administration

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3 0 OCT 2009

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P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

LERNER GREENBERG STEMER LLP
P O BOX 2480
HOLLYWOOD FL 33022-2480

In re Application of:	:	
GREULICH, Manuel, et al.	:	DECISION ON PETITION
U.S. Application No.: 10/364,004	:	
U.S. Patent No.: 6952658	:	
Filing Date: February 10, 2003	:	
Atty Docket No.: Mp.Nr.00/616	:	
For: SYSTEM FOR DETERMINING FAULT CAUSES	:	

In a decision mailed by this Office on September 16, 2009, applicants' "Petition To Accept An Unintentionally Delayed Claim Under 35 U.S.C. 120" filed July 23, 2009 was dismissed without prejudice for failure to satisfy all the requirements of a grantable petition. Specifically, applicants had failed to file an ADS or amendment (and corresponding Certificate of Correction) containing an acceptable reference to the prior filed international application.

On September 24, 2009, applicants filed the "Renewed Petition Under 37 CFR 1.78(a)(3)" considered herein as a renewed petition. The renewed petition was accompanied by an ADS that includes a proper reference identifying the present application as a continuation of PCT/EP00/07730, filed August 09, 2000. Applicants have also submitted a revised Certificate of Correction including a proper reference to the international application. Applicants have therefore now satisfied all the requirements for a grantable petition.

Having found that the renewed petition, in combination with the original petition, satisfies all the conditions of 37 CFR 1.78(a)(3), the petition is appropriately **GRANTED**.

The granting of the petition to accept the delayed benefit claim to the prior-filed international application under 37 CFR 1.78(a)(3) 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. 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the Filing Receipt accompanying this decision on petition will include the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior filed applications noted thereon.

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

Any questions concerning this decision may be directed to Richard M. Ross at (571) 272-3296. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to the Office of Patent Publication, Certificate of Corrections Branch, for appropriate action, including consideration of the Certificate of Correction filed with the present petition.

Bryan Lin

Bryan Lin
Legal Examiner
Office of PCT Legal Administration

ATTACHMENT: Corrected Filing Receipt

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

JJGJr: 06-03

Paper No: 6

LAW OFFICE OF
KAREN DANA OSTER, LLC
PMB 1020
15450 SW BOONES FERRY ROAD #9
LAKE OSWEGO OR 97035

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JUN 3 0 2003

OFFICE OF PETITIONS

In re Application of
Campbell
Application No. 10/364,017
Filed: 10 February, 2003
Attorney Docket No. LeCr:Notch II

: DECISION ON PETITION

This is a decision on the petition, filed via FAX on 4 June, 2003, to revive the instant nonprovisional application under the provisions of 37 C.F.R. §1.137(f), and considered as a petition under 37 C.F.R. §1.137(b).

The petition is **DISMISSED as inappropriate**.

The record discloses that on 10 February, 2003, the date of filing of the instant application, a Request and Certification under 35 U.S.C. §122(b)(2)(B)(I) was filed, certifying that "the invention disclosed in the attached **application has not and will not** be the subject of an application filed in another country, or under a multilateral agreement, that requires publication at eighteen months after filing."

Petitioner now requests under 35 U.S.C. §122(b)(2)(B)(ii) that the Request and Certification under 35 U.S.C. §122(b)(2)(B)(I) be rescinded and the application revived because this application became abandoned for failure to notify the Office within 45 days of the filing of a corresponding international or foreign application. In this regard, petitioner states that an international or foreign application corresponding to the instant application was filed on **30 July, 2001**, which date is **prior** to the date of filing the instant application.

The instant nonprovisional application did not become abandoned as a result of the published international application filed prior to the present application. In this regard, 35 U.S.C. §122(b)(2)(B)(iii) states:

> An applicant who has made a request under clause (I) but who **subsequently files, in a foreign country or under a multilateral international agreement** specified

> in clause (I), an application directed to the invention disclosed in the application filed in the Patent and Trademark Office, shall notify the Director of such filing not later than 45 days **after the date of the filing of such foreign or international application**. A failure of the applicant to provide such notice within the prescribed period shall result in the application being regarded as abandoned, unless it is shown to the satisfaction of the Director that the delay in submitting the notice was unintentional (emphasis added).

The facts of this case are that the instant application was filed on 10 February, 2003, and the corresponding foreign application was filed on 30 July, 2001. The statute does not provide for the situation where a certification under 35 U.S.C. §122(b)(2)(B)(I) was made, despite the fact that an application was previously filed in another country or under a multilateral agreement. The statute at 35 U.S.C. §122(b)(2)(B)(iii) only provides for revival in the situation where a certification was made under 35 U.S.C. §122(b)(2)(B)(I) at the time of filing the application and an application was subsequently filed in a foreign country without notifying the Office within 45 days of the filing thereof.

In view of the above, and since this application did not become abandoned pursuant to the provisions of 35 U.S.C. §122(b)(2)(B)(iii), a petition to revive under the provisions of 37 C.F.R. §1.137(f)is inappropriate and must be dismissed.

As requested, the Request and Certification under 35 U.S.C. §122(b)(2)(B)(I) has been rescinded. A Notice Regarding Rescission of Nonpublication Request indicating a projected publication date of 9 October, 2003, accompanies this decision.

The rules and statutory provisions governing the operations of the US Patent and Trademark Office require payment of a fee on filing each petition. 35 U.S.C. §41(a)(7). Authorization for payment of the $1,300.00 fee (as a charge to Deposit Account 50-2115) is acknowledged.

The application is being forwarded to Publications Branch to await payment of the Issue Fee before being processed into a patent.

Inquiries concerning this decision may be directed to the undersigned at (703) 305-9199.

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

Enc: Notice Regarding Rescission of Nonpublication Request (1 page)

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

RENNER, KENNER, GREIVE, BOBAK, TAYLOR & WEBER
FIRST NATIONAL TOWER
FOURTH FLOOR
AKRON, OH 44308-1456

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FEB 11 2005

OFFICE OF PETITIONS

In re Application of	:	
Sayers, Richard C.	:	
Application No. 10/364,032	:	ON PETITION
Filed: February 11, 2003	:	
Attorney Docket No. GOJ.P.89 (02096)	:	

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

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

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-3282.

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

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

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AUG 22 2006

OFFICE OF PETITIONS

AT&T CORP.
ROOM 2A207
ONE AT&T WAY
BEDMINSTER NJ 07921

In re Application of :
Joseph Thomas O'Neil et al :
Application No. 10/364,060 : ON PETITION
Filed: February 11, 2003 :
Attorney Docket No. 2002-0363A :

This is a decision on the petition, filed August 21, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on July 18, 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 August 21, 2006, are not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Michael N. Haynes 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. Haynes 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. Haynes, the petitioner herein. Until otherwise instructed, all future correspondence regarding

---

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

this 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 2155 for processing of the request for continued examination under 37 CFR 1.114 filed August 21, 2006.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

cc:
MICHAEL HAYNES PLC
1341 HUNTERSFIELD CLOSE
KESWICK, VA 22947

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. _____

Date : August 22, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Joseph Thomas O'Neil et al
Application No. :10/364,060
Filed :February 11, 2003

The above-identified application has been assigned Patent No. 7,103,649 and an issue date of September 5, 2006.

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

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of September 5, 2006:

"All reference to Patent No. 7,103,649 to Joseph Thomas O'Neil et al of New York for METHOD FOR CONFIGURING A NETWORK ELEMENT AT A CUSTOMER PREMISE VIA A MOBILE DATA TERMINAL appearing in the Official Gazette of September 5, 2006 should be deleted since no patent was granted."

Karen Creasy

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

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

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Paper No. 4

AUDLEY A. CIAMPORCENO JR.
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

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JUL 3 1 2003

OFFICE OF PETITIONS

In re Application of :
Ritchart et al. :
Application No. 10/364,062 :
Filed: February 11, 2003 :
Attorney Docket Number:
END-0712USADIV01

Decision on Petition

This is a decision on the Response to Notice of Omitted Items and Petition, filed May 23, 2003, requesting that the above-identified application be accorded a filing date of November 4, 2002, with drawing Figures 5-17 and 29 and 30 as part of the original disclosure.

The petition is granted.

The application was filed on February 11, 2003. However, on April 22, 2003, the Office mailed a " to Notice of Omitted Items in a Nonprovisional Application" stating that the application had been accorded a filing date of February 11, 2003, and advising applicants that Figures 5-17 and 29 and 30 described in the specification appeared to have been omitted from the application.

Applicant responds with the instant petition wherein Applicant avers that the drawings in the above-identified application were incorporated by reference to prior nonprovisional application no. 08/825,899.

Applicants are advised that a petition is not necessary in this instance to add the drawing figures. New drawings may be entered by the primary examiner without a petition so long as the drawings contain no new matter. See, MPEP § 608.02(a). Applicants may add figure(s) described in the specification on the basis that the drawings are not new matter.

MPEP 201.06(c) states:

> . . . 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 by herein by reference." The statement may appear in the specification or in the application transmittal letter . . . . The inclusion of this incorporation by reference of the prior application(s) will permit an applicant to amend the continuation or divisional application to include any subject matter in such prior application(s), without the need for a petition provided the continuation or divisional application is entitled to a filing date notwithstanding the incorporation by reference. (emphasis supplied).

The petition fee will not be refunded, since the petition was not necessitated by any error on the part of the USPTO.

This application is being forwarded to the Office of Initial Patent Examination, Customer Corrections, for further processing, with the filing date of February 11, 2003, using the drawing Figures filed on that date.

Telephone inquiries concerning this matter should be directed to Petitions Attorney Derek L. Woods at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

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DENTON L. ANDERSON
SHELDON & MAK PC
225 S. LAKE AVENUE – 9TH FLOOR
PASADENA, CA 91101

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MAR 2 6 2004

OFFICE OF PETITIONS

In re Application of :
Wayne Spears :
Application No. 10/364,079 :
Filed: February 11, 2003 :
Attorney Docket No. 9309.1

NOTICE

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

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

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

Inquiries related to this communication should be directed to the Office of Petitions Staff at (703) 305-9285.

This file is being forwarded to Technology Center AU 3611.

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

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Paper No. 6

Edward P. Black
PO Box 11690
Klein, TX 77391

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NOV 1 8 2003

OFFICE OF PETITIONS

In re Application of :
David A. Gotschall :
Application No. 10/364,110 : ON PETITION
Filed: February 10, 2003 :
Attorney Docket No. 030210 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 17, 2003, to revive the above-identified application.

The petition is granted.

The above-identified application became abandoned for failure to reply in a timely manner in reply to the Notice to File Missing Parts of Application (Notice) mailed March 21, 2003, which 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 have been obtained. Accordingly, the application became abandoned on May 22, 2003.

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

Telephone inquiries concerning this decision should be directed to Latrice Bond at (703) 308-6911.

Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 05182005

DATE : 4/14/05

TO SPE OF : ART UNIT 3721

SUBJECT : Request for Certificate of Correction on Patent No.: 6848235 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

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:

In claim 1, column 6, line 38: the request for changing "having a spout" to "having the spout" is not approved because it does not correct a printing error.

Rinaldi I. Rada
~~Supervisory Patent Examiner~~
Group 3700

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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GORDON & REES LLP
101 WEST BROADWAY
SUITE 1600
SAN DIEGO, CA 92101

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OFFICE OF PETITIONS

In re Application of :
Patrick Robert Zimmerman :
Application No. 10/364,128 : DECISION ON PETITION
Filed: February 10, 2003 : TO WITHDRAW
Attorney Docket No. 4775-2 : 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 7, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Gordon & Rees LLP has been revoked by the assignee of the patent application on March 20, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

The correspondence address of record has been changed to the new correspondence address below.

There are no pending Office actions at the present time.

Telephone inquires concerning this decision should be directed to Diane Goodwyn at 571-272-6735.

April Wise
Petitions Examiner
Office of Petitions

cc: HOGAN & HARTSON LLP
ONE TABOR CENTER, SUITE 1500
1200 SEVENTEENTH ST
DENVER, CO 80202

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HOGAN & HARTSON LLP
ONE TABOR CENTER, SUITE 1500
1200 SEVENTEENTH STREET
DENVER CO 80202

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OFFICE OF PETITIONS

In re Application of :
ZIMMERMAN, Patrick Robert :
Application No. 10/364,128 : DECISION GRANTING PETITION
Filed: February 10, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **29038.01 US** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 18, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on November 16, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 3628 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Monica A. Graves
Petitions Examiner
Office of Petitions

[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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AFS / ANGIODYNAMICS
666 THIRD AVENUE
FLOOR 10
NEW YORK NY 10017

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In re Application of	:	
Chomenky et al.	:	
Application No. 10/364187	:	DECISION ON PETITION
Filing or 371(c) Date: 02/11/2003	:	UNDER 37 CFR 1.78(a)(6)
Pat. Num. 6697670	:	
Issue Date: 02/24/2004	:	
Title of Invention: APPARATUS AND METHOD FOR REDUCING SUBCUTANEOUS FAT DEPOSITS BY ELECTROPORATION WITH IMPROVED COMFORT OF PATIENTS	:	

This is a decision on the Petition Under 37 C.F.R. § 1.78(a)(6) to Accept Unintentionally Delayed Claim for Benefit Under 35 U.S.C. 119(e)," filed September 23, 2008, to accept an unintentionally delayed claim for the benefit of priority to a prior-filed provisional application.

The petition is **DISMISSED.**

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

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

This petition fails to satisfy item (1) above. In this regard, 37 CR 1.78(a)(5)(ii) requires that a claim for benefit of priority to a prior-filed provisional application must be submitted during the pendency of the application. Further to this, the MPEP 201.11(E) provides: If the later-filed application is a

utility or plant application filed on or after November 29, 2000, the reference to the prior-filed application must be submitted within the time period set forth in 37 CFR 1.78(a) (e.g., during the pendency of the later-filed application and within the later of 4 months from the actual filing date of the later-filed application or 16 months from the filing date of the prior-filed application) for a benefit claim under 35 U.S.C. 120, 121, or 365(c), and also for benefit claim under 35 U.S.C. 119(e). (Emphasis supplied).

As such, a Certificate of Correction is not a valid mechanism for adding or correcting a priority claim under 35 U.S.C. § 119(e) after a patent has been granted on an application filed on or after November 29, 2000. *See* MPEP 1481.03. Therefore, as this application matured into Patent No. 6,697,670 on February 24, 2004, a claim for benefit of priority to the above-noted provisional application cannot now be added by way of a Certificate of Correction.

Applicant may attempt to add the benefit claim by way of reissue. The MPEP 1481.03 provides:

> Where the application, which became the patent to be reissued, was filed on or after November 29, 2000, reissue may be employed to correct an applicant's mistake by adding or correcting a benefit claim under 35 U.S.C. 119(e). A petition under 37 CFR 1.78(a)(6) for an unintentionally delayed claim under 35 U.S.C. 119(e) would not be required in addition to filing a reissue application.
> Section 4503 of the American Inventors Protection Act of 1999 (AIPA) amended 35 U.S.C. 119(e)(1) to state that:
>
> > No application shall be entitled to the benefit of an earlier filed provisional application under this subsection unless an amendment containing the specific reference to the earlier filed provisional application is submitted at such time during the pendency of the application as required by the Director. The Director may consider the failure to submit such an amendment within that time period as a waiver of any benefit under this subsection. The Director may establish procedures, including the payment of a surcharge, to accept an unintentionally delayed submission of an amendment under this section ***during the pendency of the application.*** (Emphasis added.)
>
> The court in Fontijn held that 35 U.S.C. 251 was sufficiently broad to correct a patent where the applicant failed to assert or failed to perfect a claim for foreign priority during the prosecution of the original application even though 35 U.S.C. 119(b) at that time required a claim and a certified copy of the foreign application to be filed before the patent is granted. Similarly, the Office may grant a reissue for adding or correcting a benefit claim under 35 U.S.C.119(e) that requires the benefit claim to a provisional application be submitted during the pendency of the application. (Emphasis supplied).

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

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

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

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

Any questions concerning this matter may be directed to Derek Woods at (571) 272-3232.

Anthony Knight
Supervisor
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

K&L Gates LLP
P.O. Box 1135
CHICAGO, IL 60690

Mail Date: 04/20/2010

Applicant	: Markus Rothkranz	: DECISION ON REQUEST FOR
Patent Number	: 7614950	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/364,216	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/10/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **747** 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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K&L Gates LLP
P.O. Box 1135
CHICAGO, IL 60690

Mail Date: 05/17/2010

Applicant : Markus Rothkranz
Patent Number : 7614950
Issue Date : 11/10/2009
Application No: 10/364,216
Filed : 02/10/2003

: 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 **783** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

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

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

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Brinks Hofer Gilson & Lione
N B C Tower
Suite 3600
P.O. Box 10395
Chicago IL 60610

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OCT 30 2006

OFFICE OF PETITIONS

In re Application of	:	
Orla Mathiasen	:	
Application No. 10/364,242	:	LETTER REGARDING
Filed: February 11, 2003	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 8465/28 / P200101379 US	:	

This letter is in response to the "REQUEST FOR REVIEW OF PATENT TERM ADJUSTMENT" filed July 24, 2006. Applicant discloses that the patent term adjustment pursuant to 35 U.S.C. 154(b) of 7 days indicated on the determination of patent term adjustment may extend the term of the patent by too many days.

The request for review of the initial determination of patent term adjustment (PTA) is **Granted**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment determination at the time of the mailing of the Notice of Allowance is ZERO (0) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

A review of the application record reveals that after having filed a response on February 9, 2006, on March 13, 2006 and again on April 17, 2006, applicant filed Information Disclosure Statements. The record does not support a conclusion that either IDS was expressly requested by the examiner. Nor did either IDS include a § 1.704(d) statement. Pursuant to

§ 1.704(c)(8), entry of a period of reduction of 67 days, counting the number of days beginning on the day after the date the initial reply was filed, February 10, 2006 and ending on the date that the second paper (IDS) subsequently filed was filed, April 17, 2006.

In view thereof, the correct determination of PTA at the time of the mailing of the notice of allowance is ZERO (0) days.

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 under 37 CFR 1.18(e). The Office thanks applicant for their good faith and candor in bringing this to the attention of the Office.

The Office of Patent Publication has been advised of this decision. The application is, thereby, forwarded to the Office of Patent Publication for issuance of the application. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of adjusted PAIR calculation

UNITED STATES PATENT AND TRADEMARK OFFICE

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DUANE MORRIS LLP
PO BOX 5203
PRINCETON NJ 08543-5203

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APR 2 4 2008

In re Application of :
Mawhirt et al. :
Application Number: 10/364256 : DECISION ON PETITION
Filing Date: 02/11/2003 :
Attorney Docket Number: ITC-50 :

This is a decision on the petition filed on January 5, 2007, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The Office apologizes for the delay in responding to the present petition.

The petition is **GRANTED**.

The application became abandoned on November 24, 2006, for failure to timely submit the issue and publication fees in response to the Notice of Allowance and Fee(s) Due mailed on August 23, 2006, which set a three (3)-month statutory period for reply. Notice of Abandonment was mailed on December 26, 2006.

---

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

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In 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 Director may required additional information where there is a question whether the delay was unintentional; and

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

Receipt of the issue and publication fees filed with the present petition is acknowledged.

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

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

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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Paper No. 7

Kevin E. Flynn
DANIELS DANIELS & VERDONIK, P.A.
P.O. DRAWER 12218
Research Triangle Park, NC 27709

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NOV 0 6 2003

Technology Center 2100

In re Application of:)
Ree et al.)
Application No. 10/364,275) **DECISION ON REQUEST FOR**
Filed: February 11, 2003) **WITHDRAWAL AS ATTORNEY**
For: NETWORK PROCESSOR WITH)
HIGH-SPEED TRANSCEIVER

This is a decision on the Request To Withdraw from Representation filed October 20, 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 October 20, 2003 meets all the requirements. Accordingly the request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

James R. Matthews

for Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture and Software
(703) 305-9750

cc: Robert P. Basil
435 Woodbrook Way
Lawrenceville, GA 30041

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. None

BRANDLEY RICHARD REE
9020 MONTCLAIR HILLS DR.
CUMMING GA 30040

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MAY 25 2007

OFFICE OF PETITIONS

In re Application of :
Bradley Ricahrd Ree :
Application No. 10/364,275 : DECISION ON PETITIONS
Filed: February 11, 2003 : UNDER 37 C.F.R. §§ 1.137(A)
Attorney Docket No.: 0089-003 : AND 1.181(A)
Title: METHOD USING RECEIVE AND :
TRANSMIT PROTOCOL AWARE LOGIC :
MODULES FOR CONFIRMING CHECKSUM :
VALUES STORED IN NETWORK PACKET :

This is a decision on the petition submitted on February 9, 2007 pursuant to 37 C.F.R. §1.181(a) and the petition submitted on February 14, 2007, pursuant to 37 C.F.R. §1.137(a)[1].

BACKGROUND

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 September 8, 2006, which set a shortened statutory period for reply of three months. Form PTOL-85b was timely received on November 13, 2006, however neither of the fees were included.

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1 A grantable petition pursuant to 37 C.F.R. §1.137(a) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R. §1.17(l);
(3) A showing to the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unavoidable;
(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. §1.20(d)) required pursuant to paragraph (d) of this section.

No extensions of time are permitted for transmitting issue or publication fees[2]. Accordingly, the above-identified application became abandoned on December 9, 2006. A Notice of Abandonment was mailed on February 21, 2007, subsequent to the filing of each of these petitions.

Petitioner has alleged that a check was included with the submission of form PTOL-85b, on November 13, 2006.

RELEVANT PORTIONS OF THE C.F.R. AND M.P.E.P.

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.

M.P.E.P. §503 sets forth, *in pertinent part*:

> If a receipt for 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. To ensure the receipt of return receipt postcards, users must either: (A) purchase already stamped postcards from the United States Postal Service (USPS) or affix postage stamps to their postcards; or (B) if a postage meter is used, ensure that the meter postmark does not show the date. Any return receipt postcard containing a dated meter postmark may not be delivered by the USPS to the address provided on the postcard. >Users are reminded that they are solely responsible for placing the proper postage on self-addressed postcards that are submitted to the USPTO for the purpose of obtaining a receipt for correspondence being filed in the USPTO. Users should check with the USPS regarding postage and what size cards are acceptable to the USPS. Any return receipt postcard that does not contain sufficient postage or is not acceptable may not be delivered by the USPS to

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2 See MPEP §710.02(e).

the address provided on the postcard, and, if returned to the USPTO, may be discarded.

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.

ANALYSIS

The petition pursuant to 37 C.F.R. §1.181(a):

With the present petition, Petitioner has alleged that a check was included with the mailing on November 13, 2006. The electronic file has been reviewed: Petitioner included a cover letter with the submission of form PTOL-85b, however it does not appear to contain a certificate of mailing. Furthermore, the PTOL-85b form contains a stamp which reads: "The PTO did not receive the following listed item(s) Check." Consequently, it does not appear that Applicant included a check with this submission.

Rule §1.8 and M.P.E.P. §503 set forth procedures which may be undertaken by applicants, in order to provide relief and secure the withdrawal of a holding of abandonment in situations where a communication is mailed to the Office and either not received or misplaced within the same.

Petitioner has included a copy of form PTOL-85b, and it does not appear to contain a certificate of mailing. Furthermore, a postcard receipt has not been provided with this petition. Additionally, Petitioner has set forth that he has reviewed his checking account, and the relevant check does not appear to have been cashed by the Office.

It follows that the showing in the present petition is not sufficient to withdraw the holding of abandonment. Pursuant to the discussion above, the petition pursuant to 37 C.F.R. §1.181 must be **DISMISSED**.

The petition pursuant to 37 C.F.R. §1.137(a):

Petitioner has not established that the payment of the issue and publication fees was made in a timely manner. Consequently, Petitioner has not established that the entire period of delay was unavoidable.

Consequently, the petition pursuant to 37 C.F.R. §1.137(a) must be **DISMISSED**.

CONCLUSION

The petition pursuant to 37 C.F.R. §1.181 is DISMISSED.
The petition pursuant to 37 C.F.R. §1.137(a) is 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 Pursuant to 37 C.F.R. 1.137(a) and/or 1.181(a)". This is not a final agency action within the meaning of 5 U.S.C 704.

Alternatively, Petitioner may also submit a petition pursuant to 37 C.F.R. §1.137(b).

Any subsequent filing pertaining to the abandonment of this application should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[3], hand-delivery[4], or facsimile[5].

If responding by mail, Petitioner is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the undersigned.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[6]. 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

---

3 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
4 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
5 (571) 273-8300- please note this is a central facsimile number.
6 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the 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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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. None

BRANDLEY RICHARD REE
9020 MONTCLAIR HILLS DR.
CUMMING GA 30040

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AUG 0 6 2007

OFFICE OF PETITIONS

In re Application of :
Bradley Ricahrd Ree :
Application No. 10/364,275 : DECISION ON PETITION
Filed: February 11, 2003 : UNDER 37 C.F.R. § 1.137(B)
Attorney Docket No.: 0089-003 :
Title: METHOD USING RECEIVE AND :
TRANSMIT PROTOCOL AWARE LOGIC :
MODULES FOR CONFIRMING CHECKSUM :
VALUES STORED IN NETWORK PACKET :

This is a decision on the petition under 37 C.F.R. §1.137(b)[1], filed July 17, 2007, 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 September 8, 2006, which set a shortened statutory period for reply of three months. Form PTOL-85b was timely received on November 13, 2006, however neither of the fees were included. No extensions of time are permitted for transmitting issue or publication fees[2]. Accordingly, the above-identified application became abandoned on December 9, 2006. A Notice of Abandonment

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

2 See MPEP §710.02(e).

was mailed on February 21, 2007, subsequent to the filing of each of these petitions.

A petition pursuant to 37 C.F.R. §1.181(a) was submitted on February 9, 2007 and a petition pursuant to 37 C.F.R. §1.137(a) was submitted on February 14, 2007. Both petitions were dismissed via the mailing of a decision on May 25, 2007.

With the present petition, Petitioner has submitted the petition fee and the proper statement of unintentional delay. The issue and publication fees have been preveniently submitted. Petitioner has met all requirements for a grantable petition under 37 C.F.R. §1.137(b). As such, the petition is **GRANTED.**

The Office of Patent Publication will be notified of this decision so that the present application can be processed into a patent.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[3]. All other inquiries concerning the status of the application should be directed to the Office of Patent Publication at 571-272-4200.

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

3 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.

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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122005

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

DEC 29 2005

In re Application of:
Richard Lee Gower *et al.*
Serial No.: 10/364,278
Filed: February 10, 2003
Attorney Docket No.: 010262-170.00US

DECISION ON PETITION
TO WITHDRAW HOLDING
OF ABANDONMENT

This is a decision on the petition under 37 C.F.R. § 1.181, filed July 22, 2005, via facsimile transmission, to withdraw the holding of abandonment in the above-identified application.

The petition is **GRANTED.**

The application was allowed and a Notice of Allowance and Fee(s) Due (Notice) was mailed July 6, 2004. The Notice was returned undelivered by the US Postal Service on July 30, 2004. The Notice was re-mailed January 19, 2005, resetting the statutory period for paying the issue fee. In the absence of a receipt of the fees due, the application was held abandoned and a Notice of Abandonment was mailed on May 25, 2005.

Petitioner asserts that the Notice of Allowance was never received. To support this assertion, petitioner includes a statement by practitioner Ardeshir Tabibi that the Notice was not received and that a search of the file jacket and docket records for the application indicates that the Notice was not received by the practitioner. A declaration by Brien Bergner, a docketing assistant at counsel's law firm, and a copy of the practitioner's docket record, where the non-received Notice would have been entered had it been received in a timely manner, was submitted in support of the petition.

A review of the written record indicates that the Notice was returned undelivered by the US Postal Service on July 30, 2004. The record indicates that the Notice was re-mailed pursuant to MPEP 707.13 on January 19, 2004. Both mailings were to the proper correspondence address of record. However, the remailed Notice was still not received by petitioner.

In view of the showing accompanying the petition, it is hereby accepted that the Notice was never received by petitioner.

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

The Notice of Allowance and Fee(s) Due and the Notice of Allowability will be re-mailed and the statutory period for paying the requisite fees will be reset to run from the date of the re-mail.

Inquiries regarding this decision should be directed to Hien H. Phan at (571) 272-1606.

James Dwyer, TC 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
WWW.USPTO.GOV

Paper No. 5

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO IL 60611

COPY MAILED

JUL 2 1 2003

OFFICE OF PETITIONS

In re Application of
Kempf, Gentry, Silverberg, Desai, Okazaki & Yin
Application No. 10/364,289
Filed: February 11, 2003
Attorney Docket No. 10745/196
For: SECURING BINDING UPDATE USING ADDRESS BASED KEYS

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

This is in response to the petition under 37 CFR 1.47(a), filed June 26, 2003 (certificate of mailing date June 24, 2003).

The petition is granted.

Petitioners have shown that the non-signing inventor, Alice Silverberg, has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the exhibits to the petition establish that the inventor received the application papers, including the specification, claims and drawings, but failed to respond to the request that she sign the declaration. The statement of facts by Attorney Tadashi Horie establishes that on May 1, 2003, Dr. Silverberg orally refused to sign the declaration unless she received additional compensation. Petitioners have submitted a declaration in compliance with 37 CFR 1.63 and 1.64.

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

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

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

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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ALICE SILVERBERG
181 METRO DRIVE
SUITE 300
SAN JOSE CA 95110

COPY MAILED

JUL 2 1 2003

OFFICE OF PETITIONS

In re Application of
Kempf, Gentry, Silverberg, Desai, Okazaki & Yin
Application No. 10/364,289
Filed: February 11, 2003
Attorney Docket No. 1-745/196
For: SECURING BINDING UPDATE USING ADDRESS BASED KEYS

LETTER

Dear Dr. Silverberg:

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: BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO IL 60611

SPE: K. Shaver

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 8/5/06

TO SPE OF : ART UNIT 3754

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/364,296 Patent No.: 6932239

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: _____

Kevin P. Shaver — SPE

3754 — Art Unit

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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MERCHANT & GOULD PC
P O BOX 2903
MINNEAPOLIS, MN 55402-0903

COPY MAILED

JUN 30 2006

OFFICE OF PETITIONS

In re Application of :
Donald Francis Engel et al :
Application No. 10/364,302 : DECISION GRANTING PETITION
Filed: February 10, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 758.556USC8 :

This is a decision on the petition, filed June 30, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 8, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 1724 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\June9\364302.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), which includes the following language thereon: "The Director of the USPTO is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee in 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

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. Box 1450
Alexandria, VA. 22313-1450
WWW.USPTO.GOV

Paper No.

Ramon K. Tabtiang
Fish & Richardson P.C.
225 Franklin Street
Boston, MA 02110

Date: June 22, 2005
Application No.: 10/364,303
Filing Date: February 10, 2003
Subject: Inhibition of Psychostimulant-Induced and Nicotine-Induced Craving

ON PETITION
37 CFR 1.48(b)

Receipt is acknowledged of the petition filed June 22, 2005, under 37 CFR 1.48(b) for correction of inventorship. The petition has been **GRANTED**.

In view of the paper filed, the names, Joseph Mandeville, Barry Kosofsky, and John Marota will be removed from the list of inventors. The application will be forwarded to the Office of Initial Patent Examination (OIPE) for issuance of a corrected filing receipt and correction of the file jacket and PTO PALM data to reflect that the inventorship as corrected.

/Dameron Jones/ 9/3/05

Dameron Jones
United States Patent and Trademark Office
Primary Examiner
Art Unit 1618
Remsen 4A51
571-272-0617

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 46

DATE : **04/18/2006**

TO SPE OF : ART UNIT **1600 (1614)**

SUBJECT : Request for Certificate of Correction on Patent No.: **6,906,100**

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

Please complete this form and return with file, within 7 days to:
Certificates of Correction Branch - PK 3-922
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.

Ok to changes in formulas as requested in C of C? Yes

Ernest C. White, LIE305-8339
Certificates of Correction Branch

Thank You For Your Assistance

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

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

Comments:

CHRISTOPHER S. F. LOW
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

Christopher S. F. Low
SPE

1614
Art Unit

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MOSER, PATTERSON & SHERIDAN, L.L.P.
3040 POST OAK BOULEVARD,
SUITE 1500
HOUSTON TX 77056-6582

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JUN 0 2 2005

OFFICE OF PETITIONS

In re Application of	:	
Terje Baustad	:	DECISION
Application No. 10/364,311	:	ON PETITION
Filed: February 11, 2003	:	37 CFR 1.137(b)
Attorney Docket No. WEAT/0293	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 30, 2005, to revive the above-identified application.

The petition is **GRANTED**.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. If the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3).

The above-identified application became abandoned for failure to timely pay the issue fee. 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. See MPEP 711.03(c)(III)(A)(1).

Petitioner has met the requirements for the filing of a grantable petition under 37 CFR 1.137(b).

Telephone inquiries concerning this decision should be directed to Stephen K. Cronin at (571) 272-6051 or, in his absence, to the undersigned at (571) 272-3217.

The application file is being forwarded to the Office of Publications.

Brian Hearn

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

LC

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Paper No.5

Clifford W. Vermette
VERMETTE & CO.
Granville Square, Box 40
230-200 Granville Street
Vancouver, BC V6C 1S4
Canada

MAILED

FEB 12 2004

Technology Center 2100

In re Application of:)
Vikash Krishna Sami)
Application No. 10/364,322) **DECISION ON REQUEST FOR**
Filed: February 19, 2003) **WITHDRAWAL AS ATTORNEY**
For: INTERNET PRIVACY PROTECTION)
DEVICE

This is a decision on the Request To Withdraw from Representation filed January 30, 2004.

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

The request filed January 30, 2004 meets all the requirements. Accordingly the request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

James R. Matthews

Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture and Software
(703) 305-9750

cc: Mr. Paul Prade
SAAFNET INTERNATIONAL INC.
5945 Kathleen Avenue, 6th Floor
Burnaby, British Columbia V5H 4J7
Canada

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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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SEP 0 6 2006
OFFICE OF PETITIONS

In re Patent No. 6,941,648 :
Issued: September 13, 2005 :
Application No. 10/364,331 : ON PETITION
Filed: February 12, 2003 :
Attorney Docket Number: SON-2040/KO/DIV :

This is a decision on the petition, filed March 28, 2006, under 37 CFR 1.183 to correct the assignee's name on the front of the Patent. The petition is treated under 37 CFR 3.81(b)[1]

The petition is **GRANTED**.

Petitioner states that the name of the second assignee, Sony Chemicals Corporation, was inadvertently omitted from the Fee(s) Transmittal form PTOL-85(b). Accordingly, petitioner requests that a certificate of correction be issued to reflect the name of the second assignee on the front page of the Letters Patent.

37 CFR 3.81(b), effective June 25, 2004, reads:

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

The request was accompanied by a certificate of correction (and fee) as required by 3.81(b). Further, the copy of the recorded assignment reflects that Sony Chemicals Corporation is an assignee of an undivided one half interest in the patent identified

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

Copied from 11364331 on 02/08/2007

above. Accordingly, as the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to issue.

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

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

Copied from 11364331 on 02/08/2007

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:062505

DATE : June 17, 2005

TO SPE OF : ART UNIT 1712

SUBJECT : Request for Certificate of Correction on Patent No.: 6,846,895 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:

RANDY GULAKOWSKI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700

SPE: Randy Gulakowski **Art Unit** 1712

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 10/25/05

DATE : 8/7/05

TO SPE OF : ART UNIT 3674

10364361

SUBJECT : Request for Certificate of Correction on Patent No.: 6,886,221

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:

SPE

3677
Art Unit

United States Patent and Trademark Office

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

122003

ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 North Seventeenth Street, Suite 1800
Arlington, VA 22209

DEC 16 2003

In re Application of	)	
Enomoto et al.	)	DECISION ON PETITION FOR
Application No. 10/364,363	)	CORRECTED OFFICE ACTION
Filed: February 12, 2003	)	AND TO RESET PERIOD FOR
Attorney Docket No. 501.36600CX1	)	RESPONSE

This is a decision on the petition, filed October 28, 2003, requesting that a corrected Office action be mailed and the period for response to the outstanding Office action be reset to run from the date on which the corrected Office action is mailed.

The petition is **DISMISSED AS MOOT**.

Petitioner asserts that the Office action dated June 17, 2003 contains rejections under 35 USC § 103 based upon a reference to "Cox (US 1,445,188)." However, US 1,445,188 is not a patent issued to Cox and does not contain the teachings or disclosure referred to by the examiner in making the § 103 rejections. Therefore, it is contended that the Office action contains a defect that causes confusion and issuance of a corrected Office action is necessary to clarify the positions of the examiner.

A review of the application file record reveals that a response to the Office action of June 17, 2003 has been timely submitted on November 17, 2003. Accordingly, the relief requested is now moot.

Petitioner is reminded that, pursuant the Manual for Examining Procedure (M.P.E.P.) Section 710.06, if an error in citation or other defective Office action is called to the attention of the Office after the expiration of the period for reply, as in the instant case, the period for reply will not be restarted and any appropriate extension fee will be required to render a reply timely.

It is also noted that the examiner cited on Form PTO-892 only one US patent. This is the US patent 1,455,188 to Cox relied upon by the examiner the obviousness rejections. It is apparent that reference to "Cox (US 1,445,188)" in the Office action is a typographical error and can be readily determined that it should apparently be read -- Cox (US 1,455,188) --. The examiner will

clarify this apparent typographical error in his next Office action.

An Office action in response to the amendment filed November 17, 2003 will be issued in due course.

Any inquiry regarding this decision should be directed Hien H. Phan, Special Program Examiner, at (703) 308-7502.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 7

BANNER & WITCOFF, LTD.
1001 G. STREET, N.W.
11th FLOOR
WASHINGTON, DC 20001

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MAY 04 2005

OFFICE OF PETITIONS

In re Application of	:	
Morton et al.	:	DECISION ON
Application No. 10/364,408	:	PETITION
Filed: February 12, 2003	:	
Atty Docket No. 006640.00001	:	

This is a decision on the PETITION TO REVIVE AN UNINTENTIONALLY DELAYED ABANDONED APPLICATION UNDER 37 CFR § 1.137(b) filed March 11, 2005.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply to the NOTICE TO FILE CORRECTED APPLICATION PAPERS mailed March 20, 2003. This Notice set a period for reply of two (2) months from the mailing date of the Notice, with extensions of time under the provisions of 37 CFR 1.136(a) permitted. No reply having been received and no extension obtained, the above-identified application became abandoned on May 20, 2003. A courtesy Notice of Abandonment was mailed on February 3, 2004.

With the instant petition, petitioner paid the petition fee, filed the required reply (substitute drawings) and made the required statement of unintentional delay. Petitioner has, thereby, met the requirements for a grantable petition under § 1.137(b).

It is noted that petitioner states that neither the NOTICE TO FILE CORRECTED APPLICATION PAPERS nor the NOTICE OF ABANDONMENT

were received at applicants' address. A review of the record confirms that both Notices were properly mailed to the correspondence address of record. Petitioner states that applicant changed his address, but submits no evidence that a change of correspondence address was properly filed with the Office prior to the mailing of the NOTICE TO FILE CORRECTED APPLICATION PAPERS. Accordingly, proper relief is revival of this application and not withdrawal of the holding of abandonment.

The power of attorney and change of address filed January 4, 2005 have been made of record.

The application file is being forwarded to the Office of Initial Patent Examination for completion of pre-examination processing, including processing of the response to Notice to File Corrected Application Papers filed on petition on March 11, 2005.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. None

STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

COPY MAILED

NOV 30 2007

OFFICE OF PETITIONS

In re Application of :
Hideyuki Hirano :
Application No. 10/364,476 : DECISION ON PETITION
Filed: February 12, 2003 : UNDER 37 C.F.R. § 1.181(A)
Attorney Docket No. 1405.1069 :
Title: DATA APPLICATION METHOD :

This is a decision on the petition filed October 3, 2007, pursuant to 37 C.F.R. § 1.181(a), to revive the above-identified application.

BACKGROUND

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed January 4, 2007, 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 April 5, 2007. A notice of abandonment was mailed on September 26, 2007.

With the present petition, Petitioner has asserted that the communication was not received.

RELEVANT PORTIONS OF THE MPEP AND C.F.R.

MPEP §711.03(c)(I)(A) sets forth, in toto:

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

To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action.

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions). Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988).

37 C.F.R. § 1.134 sets forth, *in toto*:

An Office action will notify the applicant of any non-statutory or shortened statutory time period set for reply to an Office action. Unless the applicant is notified in writing that a reply is required in less than six months, a maximum period of six months is allowed.

37 C.F.R. § 1.135 sets forth, *in toto*:

(a) If an applicant of a patent application fails to reply within the

time period provided under § 1.134 and § 1.136, the application will become abandoned unless an Office action indicates otherwise.
(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

With the present petition, Petitioner has asserted that he failed to receive the notice in question. Petitioner further has provided a copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed.

It is not clear if Petitioner searched for the missing communication. It does not appear that Petitioner has provided an attestation to the fact that a search of the file jacket and docket records indicates that the Office communication was not received.

CONCLUSION

Therefore, the petition under 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.

The renewed 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]. Registered

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.

users of EFS-Web may alternatively submit a response to this decision via EFS-Web[4].

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.

On renewed petition, Petitioner should provide an attestation to the fact that a search of the file jacket and docket records indicates that the Office communication was not received.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[5]. 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

4 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html
5 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

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

Paper No.

STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

COPY MAILED

FEB 19 2008

OFFICE OF PETITIONS

In re Application of :
Hideyuki Hirano :
Application No. 10/364,476 : DECISION ON RENEWED PETITION
Filed: February 12, 2003 : UNDER 37 C.F.R. § 1.181(A)
Attorney Docket No. 1405.1069 :
Title: DATA APPLICATION METHOD :

This is a decision on the renewed petition filed January 22, 2008, pursuant to 37 C.F.R. § 1.181(a), 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 January 4, 2007, 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 April 5, 2007. A notice of abandonment was mailed on September 26, 2007.

An original petition was filed on October 3, 2007, and was dismissed via the mailing of a decision on November 30, 2007.

Considering the facts and circumstances of the delay at issue, as set forth on petition, it is concluded that Petitioner has met his burden of establishing that the mailing was not received.

Accordingly, the petition under 37 C.F.R. § 1.181(a) is **GRANTED**. The holding of abandonment is **WITHDRAWN**.

The Technology Center will be notified of this decision. The Technology Center's support staff will re-mail the non-final action of January 4, 2007, and will set a new period for response.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[1]. All other inquiries concerning the status of the application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 35

Thomas W. Cole (For Patent Owner)
NIXON PEABODY LLP
8180 Greensboro Drive, Suite 800
McClean, Virginia 22102

Lawrence D. Maxwell (For Third Party Requester)
NEEDLE & ROSENBERG, P.C.
Suite 1200, The Candler Building
127 Peachtree Street, NE
Atlanta, Georgia 30303-1811

Enclosure: Copy of patent owner papers filed February 12, 2003, and March 31, 2003.

In re reissue application of :
Paul F. Savoca :
Application No. 10/364,510 ✓ :
Filed: February 12, 2003 :
For: U.S. Patent No. 5,335,160 :
:
In re Paul F. Savoca :
Reexamination Proceeding :
Control No. 90/005,715 :
Filed: April 28, 2000 :
For: U.S. Patent No. 5,335,160 :
:
In re Paul F. Savoca :
Reexamination Proceeding :
Control No. 90/005,719 :
Filed: May 4, 2000 :
For: U.S. Patent No. 5,335,160 :
:
In re Paul F. Savoca :
Reexamination Proceeding :
Control No. 90/006,130 :
Filed: October 16, 2001 :
For: U.S. Patent No. 5,335,160 :

MAILED
JUN 26 2003
REEXAM UNIT

DECISION GRANTING MERGER OF PROCEEDINGS

This is a decision on the patent owner's request for merger of reissue application serial No. 10/364,510 with the already merged proceeding of reexamination control Nos. 90/005,715, 90/005,719, and 90/006,130. Patent owner's request for merger was filed together with reissue application No. 10/364510 on February 12, 2003, and was supplemented on March 31, 2003.

Patent owner's request papers are taken as a composite **petition** under 37 CFR 1.182 for merger of the reissue application with the already merged reexamination proceeding.[1]

The petition is before the Office of the Patent Legal Administration of the United States Patent and Trademark Office.

The petition under 37 CFR 1.182 for merger is granted.

REVIEW OF FACTS

1. U.S. patent No. 5,335,160 issued on August 2, 1994, with 23 claims.

2. A first request for reexamination, assigned control No. 90/005,715, was filed by the patent owner on April 28, 2000.

3. A second request for reexamination, assigned control No. 90/005,719, was filed by the patent owner on May 4, 2000.

4. A preliminary amendment was filed in the '5715 and '5719 proceedings on May 19, 2000, deleting claims 1 and 4, amending claims 2, 3 and 5-7, and adding new claim 24.

5. Reexamination was ordered for both of the '5715 and '5719 reexamination proceedings on July 18, 2000.

6. A patent owner's statement under 37 CFR 1.530 was not received in either of the '5715 and '5719 proceedings, and a decision merging the '5715 and '5719 proceedings was mailed on October 12, 2000.

7. A non-final Office action was mailed for the merged proceeding on June 21, 2001, and a personal interview was held on August 30, 2001.

8. An amendment was filed on September 7, 2001, along with a declaration by the inventor. Claims 8, 16 and claim 24 were amended, and claims 25-49 were added.

---

[1] It was apparently recognized by patent owner that the papers titled as a "request" for merger were actually directed to a petition, as the supplemental paper of March 31, 2003 makes reference to "the petition fee... for filing the instant petition" as attached in the last paragraph of the supplemental paper.

9. A third request for reexamination, assigned control No. 90/006,130, was filed by a third party requester on October 16, 2001.

10. Reexamination was ordered for the '6130 reexamination proceeding on December 12, 2001.

11. A patent owner's statement under 37 CFR 1.530 was not received in the '6130 reexamination proceeding, and a decision merging the '5715, '5719, and '6130 proceedings was mailed on March 7, 2002.

12. Prosecution in the merged proceeding (for the three reexaminations) progressed to the point where a Notice of Intent to Issue Reexamination Certificate (NIRC) was mailed on February 6, 2003, indicating the status of the claims as:

> Claims 11-15 & 17-23 confirmed.
> Claims 2, 5-10 & 16 amended.
> Claims 1, 3 & 4 canceled.
> New claims 24-49 patentable.

13. On February 12, 2003 (after the NIRC was issued), the patent owner filed reissue application 10/364,510 for reissue of the 5,335,160 patent.

14. Included with the reissue application was a preliminary amendment adding new claims 50-60. In the "Remarks" section of the amendment, it is pointed out that new claims 50-60 are "narrower than the originally issued claims, but broader in some respects than the claims allowed in the merged re-examination proceedings...."

15. Also included with the reissue application was a request for merger of reissue application No. 10/364510 with the already merged proceeding of reexamination control Nos. 90/005,715, 90/005,719, and 90/006,130.

16. On March 31, 2003, patent owner supplemented the initial request for merger and included, pursuant to 37 CFR 1.17(h), the petition fee of $130.00 required for a petition under 37 CFR 1.182. As pointed out above, patent owner's request is being taken as a petition for merger of the reissue application with the merged reexamination proceeding.

DISCUSSION REGARDING MERGER

Under 37 CFR 1.565(d):

> "If a reissue application and an *ex parte* reexamination proceeding on which an order pursuant to § 1.525 has been mailed are pending concurrently on a patent, a decision will normally be made to merge the two proceedings or to suspend one of the two proceedings."

As evidenced by the above review of facts, reissue application No. 10/364,510 and reexamination control Nos. 90/005,715, 90/005,719, and 90/006,130 are currently pending. Since the order to reexamine has been mailed in all three reexamination proceedings, a decision under 37 CFR 1.565(d) is timely.

The general policy of the Office is that a reissue application examination and a reexamination proceeding will not be conducted separately at the same time as to a particular patent. The reason for this policy is to prevent inconsistent, and possibly conflicting, amendments from being introduced into the two proceedings on behalf of the patent owner. Normally, the proceedings will be merged when it is desirable to do so in the interest of expediting the prosecution of both proceedings. In making a decision on whether or not to merge the two proceedings, consideration will be given to the status of each proceeding. See MPEP 2285.

In order to provide efficient and prompt handling of all proceedings and to prevent inconsistent, and possibly conflicting, amendments from being introduced on behalf of the patent owner, it is appropriate that the reissue and the three reexamination proceedings be merged and a joint examination be conducted. Accordingly, Notice of Intent to Issue Reexamination Certificate mailed February 6, 2003, for the merged proceeding of reexamination control Nos. 90/005,715, 90/005,719, and 90/006,130 is being withdrawn, and the examination of the reissue application and the reexamination proceedings will be merged in accordance with the decision set forth below.

It is to be noted, however, that the grant of merger of a reissue application and an *ex parte* reexamination proceeding under 37 CFR 1.565(d) **is discretionary.** *The present grant of merger is not an assurance that, in a future similar situation, merger would be granted.*

DECISION MERGING THE REISSUE AND REEXAMINATION PROCEEDINGS

I. Merger of Proceedings

The above-noted reissue and reexamination proceedings are hereby merged. A joint examination will be conducted in accordance with the following guidelines and requirements.

II. Requirement for Same Amendments in Both Proceedings

1. The patent owner is required to maintain identical amendments in the reissue application and three reexamination files for purposes of the merged proceeding. The maintenance of identical amendments in all four files is required as long as the proceedings remain merged. See 37 CFR 1.565(d).

2. A review of the reexamination files for the merged proceeding of reexamination control Nos. 90/005,715, 90/005,719, and 90/006,130 shows that original patent claims 11-15 and 17-23 are present, patent claims 1, 3 and 4 are canceled, and patent claims 2, 5-10 and 16 are amended. In addition, new claims 24-49 have been added. A review of reissue application No. 10/364,510 shows that original patent claims 1-23 are present. In addition, new claims 50-60 have been added. **Accordingly, the claims are not identical in both proceedings.**

An appropriate housekeeping amendment is required within ONE (1) MONTH of this decision placing the same amendments in all four cases, specifically, Application No. 09/512,592, and Control Numbers 90/005,592 and 90/005,628 and 90/005,727. The response to the requirement must be limited to placing the same amendments in all cases, and patent owner must **not** address any issue of patentability in the housekeeping amendment.

III. Conduct of the Merged Reissue Application Examination and Reexamination Proceedings

1. After the appropriate housekeeping amendment (see Part II above) is received, or after the time for same expires, the examiner should promptly prepare an Office action.

2. In the event that a housekeeping amendment is not timely submitted, any claim which does not contain identical text in both proceedings should be rejected under 35 U.S.C. 112, paragraph 2, as being indefinite as to the content of the claims, and thus failing to particularly point out the invention.

3. Because the statutory provisions for reissue application examination include, *inter alia*, provisions equivalent to 35 U.S.C. 305 relating to the conduct of reexamination proceedings, the merged examination will be conducted on the basis of the rules relating to the broader, reissue-application examination. The examiner will apply the reissue statute, rules, and case law to the merged proceeding. **However, periods of response should be set at TWO (2) months to comply with the statutory requirement for special dispatch in reexamination (35 U.S.C. 305).**

4. Each Office action issued by the examiner will take the form of a *single action* which jointly applies to the reissue application and the reexamination proceedings. Each action will contain identifying data *for all of the cases*, i.e, the reissue application and the three reexamination proceedings, and each action will be physically entered into all four files (which will be maintained as separate files).

5. Any response by the applicant/patent owner must consist of a single response, with four copies being filed for entry in the four files, with each of the four bearing a signature. *Any such responses must be served on the requester*, who will also be sent copies of Office actions.

6. If the reissue application ultimately matures into a reissue patent, the reexamination proceedings shall be terminated by the grant of the reissued patent, and the reissued patent will serve as the certificate under 37 CFR 1.570. See MPEP 2285.

7. If the applicant/patent owner fails to file a timely and appropriate response to any Office action, the merged proceeding will be terminated as follows. The reissue application will be held abandoned, and the merger will be dissolved *as to the reissue application*. With respect to the three reexamination proceedings that will remain merged as one proceeding, the Commissioner will proceed to issue a reexamination certificate under 37 CFR 1.570 in accordance with the last action of the Office, unless further action is clearly needed as a result of the difference in rules relating to reexamination and reissue proceedings. Thus, any grounds of rejection which are not applicable under reexamination would be withdrawn (e.g., based on public use or sale), and any new grounds of rejection which are applicable under reexamination (e.g., improperly broadened claims) would be made by the examiner upon dissolution of the merged proceeding as to the reissue application. The existence of any questions/issues remaining which cannot be considered under reexamination following the dissolution would be noted by the examiner as not being proper under reexamination pursuant to 37 CFR 1.552(c).

8. If the applicant/patent owner files an express abandonment of the reissue application pursuant to 37 CFR 1.138, the next Office action of the examiner will accept the express abandonment, dissolve the merged proceeding *as to the reissue application*, and continue examination as to the three reexamination proceedings that will remain merged as one proceeding. Such examination would be conducted as set forth in the immediately preceding paragraph.

9. Applicant/patent owner is advised that the filing of a continued prosecution (CPA) reissue application under 37 CFR § 1.53(d), whereby the current reissue application is considered to be expressly abandoned, will most likely result in the dissolution of the merged proceeding, a stay of the CPA reissue application, and separate, continued prosecution of the

three reexamination proceedings that will remain merged as one proceeding.

LACK OF SERVICE

It should be noted that the requisite proof of service [2] of the February 12, 2003, request (for merger) upon Lawrence D. Maxwell, the third party requester in the merged reexamination proceeding, was not included with that request. The March 31, 2003, supplemental request included a Certificate of Service of an "Amendment After Final" on the requester, but not the request for merger.

Since the requisite proof of service on third party requester Maxwell has not been included, a copy of the two patent owner requests is being provided to requester with this decision.

Any future communications filed by the patent owner in the merged reexamination proceeding must include proof of service of the paper **to which the proof is attached** upon the third party requester.

CONCLUSION

1. The petition to merge the reissue and reexamination proceedings is **granted**.

2. The Notice of Intent to Issue Reexamination Certificate mailed February 6, 2003, for the merged proceeding of reexamination control Nos. 90/005,715, 90/005,719, and 90/006,130 is hereby **withdrawn**.

3. Reissue application No. 10/364,510 **is merged** with the already merged proceeding of reexamination control Nos. 90/005,715, 90/005,719, and 90/006,130.

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[2] Pursuant to 37 CFR 1.550(f) "[a]fter filing of a request for *ex parte* reexamination by a third party requester, any document filed by either the patent owner or the third party requester must be served on the other party in the reexamination proceeding in the manner provided by § 1.248. The document must reflect service or the document may be refused consideration by the Office."

4. Pursuant to Part II of this decision, a housekeeping amendment is required **within ONE MONTH of this decision,** placing the same amendments in all cases of the present merged proceeding.

5. The reissue and three reexaminations files are being forwarded to the examiner via the Director of Technology Center 2800. Upon receipt of same, the examiner **should not issue an Office action for the present merged proceeding of the reissue and reexamination proceedings until after the earlier of** (a) the submission of the housekeeping amendment to place the same amendments in both cases or (b) the expiration of the ONE (1) month period from the mailing of this decision for filing the amendment.

6. All further examination in the merged proceeding should be conducted in accordance with Part III of this decision.

7. Telephone inquiries related to this decision should be directed to Kenneth M. Schor, Senior Legal Advisor, at (703) 308-6710.

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

June 23, 2003
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UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 060304

Thomas W. Cole
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401 9th Street, NW
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Washington, DC 20004-2128

(For Patent Owner)

Lawrence D. Maxwell
NEEDLE & ROSENBERG, P.C.
Suite 1200, The Candler Building
127 Peachtree Street, NE
Atlanta, Georgia 30303-1811

(For Third Party Requester)

In re Paul F. Savoca
Reissue Application
Serial Number 10/364,510
Filed: April 28, 2000
For U.S. Patent No. 5,335,160

In re Paul F. Savoca
Reexamination Proceeding
Control No. 90/005,715
Filed: April 28, 2000
For U.S. Patent No. 5,335,160

In re Paul F. Savoca
Reexamination Proceeding
Control No. 90/005,719
Filed: May 4, 2000
For U.S. Patent No. 5,335,160

In re Paul F. Savoca
Reexamination Proceeding
Control No. 90/006,130
Filed: October 16, 2001
For U.S. Patent No. 5,335,160

DECISION TO VACATE PREVIOUS OFFICE COMMUNICATION

This is a decision *sua sponte* vacating the Notice of Non-Compliant Amendment mailed May 24, 2004.

The amendment filed on February 27, 2004 was considered non-compliant because it failed to meet the requirements of 37 CFR § 1.121, as amended on June 30, 2003 (see 68 Fed. Reg. 38611, June 20, 2003). Particularly, the amendment was held to be non-compliant because: (1) a complete listing of all the claims was not present and (2) each claim was not provided with the proper status identifier, and as such, the individual status of each claim can not be identified.

A review of the file record reveals that the instant application is a reissue application. 37 CFR § 1.121(h) describes the manner in making amendments in reissue applications and states that "any amendment to the description and claims in reissue applications must be made in accordance with 37 CFR § 1.173." The amendment filed February 27, 2003 meets the requirements of 37 CFR § 1.173 and is proper.

For the above stated reason, the Notice of Non-Compliant Amendment is hereby vacated.

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

Inquiries related to this decision should be directed to Jose' G. Dees at (571) 272-1569.

FOR

Janice A. Falcone, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 36

Thomas W. Cole (For Patent Owner)
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8180 Greensboro Drive, Suite 800
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Lawrence D. Maxwell (For Third Party Requester)
NEEDLE & ROSENBERG, P.C.
Suite 1200, The Candler Building
127 Peachtree Street, NE
Atlanta, Georgia 30303-1811

Enclosure: Copy of patent owner papers filed February 12, 2003, and March 31, 2003.

In re reissue application of :
Paul F. Savoca :
Application No. 10/364,510 ✓ :
Filed: February 12, 2003 :
For: U.S. Patent No. 5,335,160 :
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In re Paul F. Savoca :
Reexamination Proceeding :
Control No. 90/005,715 :
Filed: April 28, 2000 :
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:
In re Paul F. Savoca :
Reexamination Proceeding :
Control No. 90/006,130 :
Filed: October 16, 2001 :
For: U.S. Patent No. 5,335,160 :

MAILED
JUN 26 2003
REEXAM UNIT

DECISION GRANTING
MERGER OF
PROCEEDINGS

This is a decision on the patent owner's request for merger of reissue application serial No. 10/364,510 with the already merged proceeding of reexamination control Nos. 90/005,715, 90/005,719, and 90/006,130. Patent owner's request for merger was filed together with reissue application No. 10/364510 on February 12, 2003, and was supplemented on March 31, 2003.

Patent owner's request papers are taken as a composite **petition** under 37 CFR 1.182 for merger of the reissue application with the already merged reexamination proceeding.[1]

The petition is before the Office of the Patent Legal Administration of the United States Patent and Trademark Office.

The petition under 37 CFR 1.182 for merger is granted.

REVIEW OF FACTS

1. U.S. patent No. 5,335,160 issued on August 2, 1994, with 23 claims.

2. A first request for reexamination, assigned control No. 90/005,715, was filed by the patent owner on April 28, 2000.

3. A second request for reexamination, assigned control No. 90/005,719, was filed by the patent owner on May 4, 2000.

4. A preliminary amendment was filed in the '5715 and '5719 proceedings on May 19, 2000, deleting claims 1 and 4, amending claims 2, 3 and 5-7, and adding new claim 24.

5. Reexamination was ordered for both of the '5715 and '5719 reexamination proceedings on July 18, 2000.

6. A patent owner's statement under 37 CFR 1.530 was not received in either of the '5715 and '5719 proceedings, and a decision merging the '5715 and '5719 proceedings was mailed on October 12, 2000.

7. A non-final Office action was mailed for the merged proceeding on June 21, 2001, and a personal interview was held on August 30, 2001.

8. An amendment was filed on September 7, 2001, along with a declaration by the inventor. Claims 8, 16 and claim 24 were amended, and claims 25-49 were added.

---

[1] It was apparently recognized by patent owner that the papers titled as a "request" for merger were actually directed to a petition, as the supplemental paper of March 31, 2003 makes reference to "the petition fee... for filing the instant petition" as attached in the last paragraph of the supplemental paper.

9. A third request for reexamination, assigned control No. 90/006,130, was filed by a third party requester on October 16, 2001.

10. Reexamination was ordered for the '6130 reexamination proceeding on December 12, 2001.

11. A patent owner's statement under 37 CFR 1.530 was not received in the '6130 reexamination proceeding, and a decision merging the '5715, '5719, and '6130 proceedings was mailed on March 7, 2002.

12. Prosecution in the merged proceeding (for the three reexaminations) progressed to the point where a Notice of Intent to Issue Reexamination Certificate (NIRC) was mailed on February 6, 2003, indicating the status of the claims as:

> Claims 11-15 & 17-23 confirmed.
> Claims 2, 5-10 & 16 amended.
> Claims 1, 3 & 4 canceled.
> New claims 24-49 patentable.

13. On February 12, 2003 (after the NIRC was issued), the patent owner filed reissue application 10/364,510 for reissue of the 5,335,160 patent.

14. Included with the reissue application was a preliminary amendment adding new claims 50-60. In the "Remarks" section of the amendment, it is pointed out that new claims 50-60 are "narrower than the originally issued claims, but broader in some respects than the claims allowed in the merged re-examination proceedings...."

15. Also included with the reissue application was a request for merger of reissue application No. 10/364510 with the already merged proceeding of reexamination control Nos. 90/005,715, 90/005,719, and 90/006,130.

16. On March 31, 2003, patent owner supplemented the initial request for merger and included, pursuant to 37 CFR 1.17(h), the petition fee of $130.00 required for a petition under 37 CFR 1.182. As pointed out above, patent owner's request is being taken as a petition for merger of the reissue application with the merged reexamination proceeding.

DISCUSSION REGARDING MERGER

Under 37 CFR 1.565(d):

> "If a reissue application and an *ex parte* reexamination proceeding on which an order pursuant to § 1.525 has been mailed are pending concurrently on a patent, a decision will normally be made to merge the two proceedings or to suspend one of the two proceedings."

As evidenced by the above review of facts, reissue application No. 10/364,510 and reexamination control Nos. 90/005,715, 90/005,719, and 90/006,130 are currently pending. Since the order to reexamine has been mailed in all three reexamination proceedings, a decision under 37 CFR 1.565(d) is timely.

The general policy of the Office is that a reissue application examination and a reexamination proceeding will not be conducted separately at the same time as to a particular patent. The reason for this policy is to prevent inconsistent, and possibly conflicting, amendments from being introduced into the two proceedings on behalf of the patent owner. Normally, the proceedings will be merged when it is desirable to do so in the interest of expediting the prosecution of both proceedings. In making a decision on whether or not to merge the two proceedings, consideration will be given to the status of each proceeding. See MPEP 2285.

In order to provide efficient and prompt handling of all proceedings and to prevent inconsistent, and possibly conflicting, amendments from being introduced on behalf of the patent owner, it is appropriate that the reissue and the three reexamination proceedings be merged and a joint examination be conducted. Accordingly, Notice of Intent to Issue Reexamination Certificate mailed February 6, 2003, for the merged proceeding of reexamination control Nos. 90/005,715, 90/005,719, and 90/006,130 is being withdrawn, and the examination of the reissue application and the reexamination proceedings will be merged in accordance with the decision set forth below.

It is to be noted, however, that the grant of merger of a reissue application and an *ex parte* reexamination proceeding under 37 CFR 1.565(d) **is discretionary**. *The present grant of merger is not an assurance that, in a future similar situation, merger would be granted.*

DECISION MERGING THE REISSUE AND REEXAMINATION PROCEEDINGS

I. Merger of Proceedings

The above-noted reissue and reexamination proceedings are hereby merged. A joint examination will be conducted in accordance with the following guidelines and requirements.

II. Requirement for Same Amendments in Both Proceedings

1. The patent owner is required to maintain identical amendments in the reissue application and three reexamination files for purposes of the merged proceeding. The maintenance of identical amendments in all four files is required as long as the proceedings remain merged. See 37 CFR 1.565(d).

2. A review of the reexamination files for the merged proceeding of reexamination control Nos. 90/005,715, 90/005,719, and 90/006,130 shows that original patent claims 11-15 and 17-23 are present, patent claims 1, 3 and 4 are canceled, and patent claims 2, 5-10 and 16 are amended. In addition, new claims 24-49 have been added. A review of reissue application No. 10/364,510 shows that original patent claims 1-23 are present. In addition, new claims 50-60 have been added. **Accordingly, the claims are not identical in both proceedings.**

An appropriate housekeeping amendment is required within ONE (1) MONTH of this decision placing the same amendments in all four cases, specifically, Application No. 09/512,592, and Control Numbers 90/005,592 and 90/005,628 and 90/005,727. The response to the requirement must be limited to placing the same amendments in all cases, and patent owner must **not** address any issue of patentability in the housekeeping amendment.

III. Conduct of the Merged Reissue Application Examination and Reexamination Proceedings

1. After the appropriate housekeeping amendment (see Part II above) is received, or after the time for same expires, the examiner should promptly prepare an Office action.

2. In the event that a housekeeping amendment is not timely submitted, any claim which does not contain identical text in both proceedings should be rejected under 35 U.S.C. 112, paragraph 2, as being indefinite as to the content of the claims, and thus failing to particularly point out the invention.

3. Because the statutory provisions for reissue application examination include, *inter alia*, provisions equivalent to 35 U.S.C. 305 relating to the conduct of reexamination proceedings, the merged examination will be conducted on the basis of the rules relating to the broader, reissue-application examination. The examiner will apply the reissue statute, rules, and case law to the merged proceeding. **However, periods of response should be set at TWO (2) months to comply with the statutory requirement for special dispatch in reexamination (35 U.S.C. 305).**

4. Each Office action issued by the examiner will take the form of a *single action* which jointly applies to the reissue application and the reexamination proceedings. Each action will contain identifying data *for all of the cases*, i.e, the reissue application and the three reexamination proceedings, and each action will be physically entered into all four files (which will be maintained as separate files).

5. Any response by the applicant/patent owner must consist of a single response, with four copies being filed for entry in the four files, with each of the four bearing a signature. *Any such responses must be served on the requester*, who will also be sent copies of Office actions.

6. If the reissue application ultimately matures into a reissue patent, the reexamination proceedings shall be terminated by the grant of the reissued patent, and the reissued patent will serve as the certificate under 37 CFR 1.570. See MPEP 2285.

7. If the applicant/patent owner fails to file a timely and appropriate response to any Office action, the merged proceeding will be terminated as follows. The reissue application will be held abandoned, and the merger will be dissolved *as to the reissue application*. With respect to the three reexamination proceedings that will remain merged as one proceeding, the Commissioner will proceed to issue a reexamination certificate under 37 CFR 1.570 in accordance with the last action of the Office, unless further action is clearly needed as a result of the difference in rules relating to reexamination and reissue proceedings. Thus, any grounds of rejection which are not applicable under reexamination would be withdrawn (e.g., based on public use or sale), and any new grounds of rejection which are applicable under reexamination (e.g., improperly broadened claims) would be made by the examiner upon dissolution of the merged proceeding as to the reissue application. The existence of any questions/issues remaining which cannot be considered under reexamination following the dissolution would be noted by the examiner as not being proper under reexamination pursuant to 37 CFR 1.552(c).

8. If the applicant/patent owner files an express abandonment of the reissue application pursuant to 37 CFR 1.138, the next Office action of the examiner will accept the express abandonment, dissolve the merged proceeding *as to the reissue application*, and continue examination as to the three reexamination proceedings that will remain merged as one proceeding. Such examination would be conducted as set forth in the immediately preceding paragraph.

9. Applicant/patent owner is advised that the filing of a continued prosecution (CPA) reissue application under 37 CFR § 1.53(d), whereby the current reissue application is considered to be expressly abandoned, will most likely result in the dissolution of the merged proceeding, a stay of the CPA reissue application, and separate, continued prosecution of the

three reexamination proceedings that will remain merged as one proceeding.

LACK OF SERVICE

It should be noted that the requisite proof of service [2] of the February 12, 2003, request (for merger) upon Lawrence D. Maxwell, the third party requester in the merged reexamination proceeding, was not included with that request. The March 31, 2003, supplemental request included a Certificate of Service of an "Amendment After Final" on the requester, but not the request for merger.

Since the requisite proof of service on third party requester Maxwell has not been included, a copy of the two patent owner requests is being provided to requester with this decision.

Any future communications filed by the patent owner in the merged reexamination proceeding must include proof of service of the paper **to which the proof is attached** upon the third party requester.

CONCLUSION

1. The petition to merge the reissue and reexamination proceedings is **granted**.

2. The Notice of Intent to Issue Reexamination Certificate mailed February 6, 2003, for the merged proceeding of reexamination control Nos. 90/005,715, 90/005,719, and 90/006,130 is hereby **withdrawn**.

3. Reissue application No. 10/364,510 **is merged** with the already merged proceeding of reexamination control Nos. 90/005,715, 90/005,719, and 90/006,130.

---

[2] Pursuant to 37 CFR 1.550(f) "[a]fter filing of a request for *ex parte* reexamination by a third party requester, any document filed by either the patent owner or the third party requester must be served on the other party in the reexamination proceeding in the manner provided by § 1.248. The document must reflect service or the document may be refused consideration by the Office."

4. Pursuant to Part II of this decision, a housekeeping amendment is required **within ONE MONTH of this decision,** placing the same amendments in all cases of the present merged proceeding.

5. The reissue and three reexaminations files are being forwarded to the examiner via the Director of Technology Center 2800. Upon receipt of same, the examiner **should not issue an Office action for the present merged proceeding of the reissue and reexamination proceedings until after the earlier of** (a) the submission of the housekeeping amendment to place the same amendments in both cases or (b) the expiration of the ONE (1) month period from the mailing of this decision for filing the amendment.

6. All further examination in the merged proceeding should be conducted in accordance with Part III of this decision.

7. Telephone inquiries related to this decision should be directed to Kenneth M. Schor, Senior Legal Advisor, at (703) 308-6710.

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

June 23, 2003
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UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

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

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
10/364,510	02/12/2003	Paul F. Savoca	

PATENT NUMBER	DATE OF THIS NOTICE	PAPER NUMBER
5,335,160	06/26/2003	37

NOTICE OF MERGED REEXAM - REISSUE PROCEEDING

This reissue application has been merged with the reexamination proceeding listed below:

Control No. 90/005,715 Filing Date: 04/28/2000
Control No. 90/005,719 Filing Date: 05/04/2000
Control No. 90/006,130 Filing Date: 10/16/2001

Requester (name, address) Lawrence E. Maxwell
NEEDLE & ROSENBERG, P.C.
Suite 1200, The Candler Building
127 Peachtree Street, NE
Atlanta, GA 30303-1811

The front face of the reissue patent will include the following paragraph:

REEXAMINATION RESULTS

The questions raised in reexamination request No. 90/005,715 90/005,719** 90/006,130**, filed **04/28/2000, have been considered and the results thereof are reflected in this reissue patent which constitutes the reexamination certificate required by 35 U.S.C. 307 as provided in 37 CFR 1.570(e).

**and filed 05/04/2000 and 10/16/2001, respectively

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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ADE & COMPANY
1700-360 MAIN STREET
WINNIPEG, MANITOBA R3C 3Z3
CANADA

COPY MAILED

AUG 17 2005

OFFICE OF PETITIONS

In re Patent No. 6,770,810 :
Issue Date: August 3, 2004 :
Application No. 10/364,512 : ON PETITION
Filed: February 12, 2003 :
Attorney Docket No. 85033-202 RWD :

This is a decision on the petition filed August 8, 2005, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee on the front page of the above-identified patent by way of Certificate of Correction.

The petition is dismissed.

A request for a certificate of correction (accompanied by the fee set forth in 37 CFR 1.20(a)) must accompany the instant request. *See* 37 CFR 3.81(b).

Additionally, the "Notice of Recordation of Assignment Document," dated July 2, 2003, indicates four (4) pages of assignment documents were submitted, however, only two (2) pages appear to have been submitted with the instant request. Petitioner should submit copies of all the documents originally submitted for assignment recordation.

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

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

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

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

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

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3228.

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

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United States Patent and Trademark Office
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ADE & COMPANY
1700-360 MAIN STREET
WINNIPEG, MANITOBA R3C 3Z3
CANADA

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NOV 1 0 2005

OFFICE OF PETITIONS

In re Patent No. 6,770,810 :
Issue Date: August 3, 2004 :
Application No. 10/364,512 : ON PETITION
Filed: February 12, 2003 :
Attorney Docket No. 85033-202 RWD :

This is a decision on the request for reconsideration of request under 37 CFR 3.81(b)[1] to correct the assignee on the front page of the above-identified patent by way of Certificate of Correction.

The petition is granted.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3228. 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.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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

OIPE JC139
AUG. 0 8 2005
PATENT & TRADEMARK OFFICE

DAS & RFW

Attorney Docket No: 85099-202 RWD

U.S. Patent and Trademark Office
401 Dulany Street – Randolph Building
Customer Service Window – Mail Stop Petition
Alexandria, VA 22314
U.S.A.

APPLICANT	Ernst H. Wiebe and Caron Hopfner
PATENT NO.	6,770,810
ISSUED	August 3, 2004
FOR	High Voltage Electrical Handling Device Enclosure

PETITION UNDER 37 C.F.R. §1.183

Dear Sir:

It is hereby requested that 37 CFR 3.81(a) be waived to permit the correct name of the assignee to be provided after issuance of the patent. The assignee on US patent 6,770,810 reads Manitoba Hydro-Electric Board, but should read Manitoba Hydro-Electric Board and Partner Technologies Inc.

Failure to include the correct assignee name on the issue fee transmittal letter (form PTOL-85B) was inadvertent. An Assignment was filed on February 12, 2003 and recorded on Reel No. 013771, Frame No. 0473, which correctly identified the assignee as both Manitoba Hydro-Electric Board and Partner Technologies Inc. The filing certificate, attached herewith, correctly acknowledges both Manitoba Hydro-Electric Board and Partner Technologies Inc. as assignees.

A copy of the Notice of Recordation Document is attached herewith in which the assignee is incorrectly listed as Manitoba Hydro-Electric Board instead of both Manitoba Hydro-Electric Board and Partner Technologies Inc. A copy of the

08/09/2005 JADD01 00000003 6770810
01 FC:1464 130.00 OP

11/10/2005 AKELLEY 00000005 677810
01 FC:1808 130.00 OP

Adjustment date: 11/10/2005 AKELLEY
08/09/2005 JADD01 00000003 6770810
01 FC:1464 -130.00 OP

assignment recorded on Reel No. 013771, Frame No. 0473 is also attached herewith as evidence of the error by the Patent Office on the Notice of Recordation document.

The petition fee required by 37 CFR 1.17(h) is also attached.

Respectfully submitted

Ernst H. Wiebe and Caron Hopfner

PER:
Ryan W. Dupuis
Registration 47,345

RWD/hk
August 4, 2005

Ryan W. Dupuis Winnipeg, Manitoba, Canada
Telephone (204) 947-0062 - FAX (204) 942-5723

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 1105

DATE : 11/02/05

TO SPE OF : ART UNIT **2874**

SUBJECT : Request for Certificate of Correction on Patent No.: 10364522 6919985

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

Angela Green
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:

SPE — 2874 Art Unit

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Paper No. 052604

WEIDE & MILLER, LTD.
7251 W. LAKE MEAD BLVD.
SUITE 530
LAS VEGAS NV 89128

JUL 22 2004

In re Application of:
COLE et al.
Serial No.: 10/364,535
Filed: February 10, 2003
Attorney Docket No.: **COLEI.0005P**

NOTICE OF WITHDRAWAL
FROM ISSUE
UNDER 37 CFR § 1.313

The purpose of this communication is to inform you that the above-identified application is being withdrawn from issue pursuant to 37 CFR § 1.313.

The above-identified application is hereby withdrawn from issue. The Notice of Allowance and Issue Fee Due and the Notice of Allowability mailed on January 12, 2004, are hereby vacated.

The application is being withdrawn to permit reopening of prosecution. The reasons will be communicated to you by the examiner.

Upon receipt of a new Notice of Allowance and Issue Fee Due, applicant may request that any previously submitted issue fee be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due. If the application is abandoned, applicant may request either a refund, or a credit to a Deposit Account.

Telephone inquires should be directed to Elvin Enad at (571) 272-1990.

The above-identified application is being forwarded to the examiner for prompt appropriate action.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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WINSTEAD SECHREST & MINICK, P.C.
P.O. BOX 50784
1201 MAIN STREET
DALLAS, TX 75250-0784

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JUL 19 2005

OFFICE OF PETITIONS

In re Application of	:	
Gibson et al.	:	
Application No. 10/364,537	:	ON PETITION
Filed: February 11, 2003	:	
Attorney Docket No. 24469-P006D1	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed June 17, 2005, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to timely reply to the non-final Office action mailed October 20, 2004. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on January 21, 2005. A Notice of Abandonment was mailed May 2, 2005.

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

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

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

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

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BAKER BOTTS, LLP
910 LOUISIANA
HOUSTON TX 77002-4995

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OFFICE OF PETITIONS

In re Application of :
Thierry Verpoort et al :
Application No. 10/364,540 : DECISION GRANTING PETITION
Filed: February 11, 2003 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 069208.0111 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 16, 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; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply of July 16, 2007, is accepted as having been unintentionally delayed.

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 extension of time submitted with the petition on July 16, 2007 was subsequent to the maximum period obtainable for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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.

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

This matter is being referred to Technology Center AU 1723.

Karen Creasy
Petitions Examiner
Office of Petitions

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1201 MAIN STREET
DALLAS TX 75250-0784

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OFFICE OF PETITIONS

In re Application of :
Gregory M. Gibson et al :
Application No. 10/364,545 : ON PETITION
Filed: February 11, 2003 :
Attorney Docket No. 24469-P006D2 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 18, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely reply to the Nonfinal Office action mailed August 5, 2003, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on November 6, 2003.

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).

Further, the person signing the instant petition requests a change of correspondence address to customer number 31,886. However, 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.

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

The application is being forwarded to Technology Center AU 1762.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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LUCAS & MERCANTI, LLP
475 PARK AVENUE SOUTH
15TH FLOOR
NEW YORK, NY 10016

Mail Date: 04/20/2010

Applicant	: Wataru Mizuno	: DECISION ON REQUEST FOR
Patent Number	: 7632550	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/364,551	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/11/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **555** 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

1725

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
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HAYNES BEFFEL & WOLFELD
P O BOX 366
HALF MOON BAY, CA 94019

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FEB 10 2004

OFFICE OF PETITIONS

In re Application of
Kuo-Ching Liu et al
Application No. 10/364,587
Filed: February 11, 2003
Attorney Docket No. NWAV 1001-5

ON PETITION

This is a decision on the petition, filed January 14, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

Petitioner requested that the instant application be withdrawn from issue for consideration of the Information Disclosure Statement (IDS) in a concurrently filed request for continued examination (RCE) under 37 CFR 1.114.

The petition of January 14, 2004 was never brought to the attention of the deciding official's office until recently. It is noted that, despite the filing of the petition to withdraw from issue, the RCE, and the IDS, and the fact that the issue fee was paid on November 17, 2003, the Office nevertheless prosecuted the application without any action being taken on the petition to withdraw from issue. Nevertheless, the petition to withdraw from issue filed on January 14, 2004 is hereby granted *nunc pro tunc* and the actions taken by the examiner after the filing of the petition to withdraw from issue, the RCE and the IDS are considered to be ratified by this decision.

Petitioner is advised that the issue fee paid on November 17, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

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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Paper No. 4

Patterson, Thuente, Skaar & Christensen, P.A.
4800 IDS Center
80 South 80th Street
Minneapolis MN 55402-2100

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JUL 10 2003

OFFICE OF PETITIONS

In re Application of :
CHANDRASHEKHAR P. PATHAK :
Application No. 10/364,592 : DECISION GRANTING PETITION
Filed: February 11, 2003 :
Attorney Docket No. 2962.07US04 :

This is a decision on the petition under 37 CFR 1.10, filed May 2, 2003, which is being treated as a petition under 37 CFR 1.53(e) to request that the above-identified application be accorded a filing date of February 11, 2003, with Figures 1-7 as part of the original disclosure.

On February 11, 2003, applicant deposited the above-identified application. On April 24, 2003, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application," stating that the application had not been accorded a filing date as the application was deposited without drawings and that the filing date would be the date of receipt of the items.

In response, on May 2, 2003, applicant filed the present petition and a copy of applicant's postcard receipt acknowledging receipt of 7 sheets of drawings (Figures 1-7) on February 11, 2003. Additionally, applicant submitted a copy of the 7 sheets of drawings.

Upon review of the record, the 7 sheets of drawings deposited on February 11, 2003, have not been located among the application papers. However, the evidence is convincing that the application papers deposited on February 11, 2003, included 7 drawing sheets, which were subsequently misplaced in the United States Patent and Trademark Office. Therefore, the application, including 7 drawing sheets, was complete on filing and will be granted a filing date of February 11, 2003.

Accordingly, the petition is granted.

The "Notice of Incomplete Nonprovisional Application," mailed April 24, 2003, was sent in error and is hereby vacated. Accordingly, the $130.00 petition fee will be credit to Deposit Account No. 16-0631.

The application file is being forwarded to the Office of Initial Patent Examination to accord the filing date to February 11, 2003, using Figures 1-7 submitted with the present petition. The Office records should indicate that 7 sheets of drawings were submitted on filing.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

NOVARTIS
CORPORATE INTELLECTUAL PROPERTY
ONE HEALTH PLAZA 104/3
EAST HANOVER NJ 07936-1080

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MAY 2 4 2005

OFFICE OF PETITIONS

In re Application of :
Romulus Kimbro Brazzell :
Application No. 10/364,606 : ON PETITION
Filed: February 11, 2003 :
Attorney Docket No. OP/4-32356A/USN :

This is a decision on the petition, filed May 17, 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**.

The above-identified application is withdrawn from issue for express abandonment. See 37 CFR 1.313(c)(3). The above-identified application is expressly abandoned in favor of a continuing application filed under 37 CFR 1.53(b).

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

This matter is being referred to Files Repository.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 4/4/07

Paper No.: —

TO SPE OF : ART UNIT 2165

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/364,610 Patent No.: 7020653B2

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

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

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

Virginia Tolbert
Certificates of Correction Branch

703-308-9390 ext. 113

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

_____

_____

SPE — Art Unit 2166

HOSAIN ALAM
SUPERVISORY PATENT EXAMINER

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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MODIANO & ASSOCIATI
VIA MERAVIGLI, 16
20123 MILANO ITALY
EUROPE

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JUL 2 9 2005

OFFICE OF PETITIONS

In re Application of	:	
Livio Mina	:	DECISION
Application No. 10/364,620	:	ON PETITION
Filed: 12 February 2003	:	37 CFR 1.137(b)
Attorney Docket No. 37079-rf	:	

This is a decision on the petition under 37 CFR 1.137(b), filed 14 April 2005, to revive the above-identified application.

The petition is **GRANTED**.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. If the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3).

The above-identified application became abandoned for failure to timely pay the issue fee and publication fee. 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. See MPEP 711.03(c)(III)(A)(1).

Petitioner has met the requirements for the filing of a grantable petition under 37 CFR 1.137(b) in that the issue fee and publication fee has been paid.

Telephone inquiries concerning this decision should be directed to Erik Kielin at (571) 272-6051 or, in his absence, to the undersigned at (571) 272-3217.

The application file is being referred to the Office of Publications.

Karen Creasy for

Brian Hearn
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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MODIANO & ASSOCIATI
VIA MERAVIGLI, 16
20123 MILANO ITALY

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JUL 29 2005

OFFICE OF PETITIONS

In re Application of	:	
Livio Mina	:	DECISION
Application No. 10/364,620	:	ON PETITION
Filed: 12 February 2003	:	37 CFR 1.137(b)
Attorney Docket No. 37079-rf	:	

This is a decision on the petition under 37 CFR 1.137(b), filed 14 April 2005, to revive the above-identified application.

The petition is **GRANTED**.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. If the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3).

The above-identified application became abandoned for failure to timely pay the issue fee and publication fee. 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. See MPEP 711.03(c)(III)(A)(1).

Petitioner has met the requirements for the filing of a grantable petition under 37 CFR 1.137(b) in that the issue fee and publication fee has been paid.

Telephone inquiries concerning this decision should be directed to Erik Kielin at (571) 272-6051 or, in his absence, to the undersigned at (571) 272-3217.

The application file is being referred to the Office of Publications.

Karen Creasy for

Brian Hearn
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. 4

SMART AND BIGGAR
438 UNIVERSITY AVNEUE
SUITE 1500 BOX 111
TORONTO, ON M5G 2K8
CANADA

AIRMAIL

COPY MAILED

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OFFICE OF PETITIONS

In re Application of	:	
Evert E. De Boer et al	:	
Application No. 10/364,622	:	DECISION GRANTING PETITION
Filed: February 12, 2003	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 91436-359	:	

This is a decision on the petition, filed June 16, 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 February 6,6 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 November 4, 2004 accompanies this decision on petition.

Pursuant to petitioner's authorization, Deposit Account No. 19-2548 was charged $1330.00 for the petition to revive an unintentionally abandoned application (37 CFR 1.137(f)).

Any inquiries concerning this decision may be directed to the undersigned at (703) 306-5685.

This application is being forwarded to Technology Center Art Unit 2142 for examination in due course.

Wan Laymon
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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OFFICE OF PETITIONS

MODIANO & ASSOCIATI
VIA MERAVIGLI, 16
20123 MILANO IT ITALY

In re Patent No. 6,948,519 :
Issue Date: September 27, 2005 :
Application No. 10/364,646 : NOTICE
Filed: February 12, 2003 :
Attorney Docket No. 36611/GM/1P :

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

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

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

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-3208.

Karen Creasy
Petitions Examiner
Office of Petitions

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COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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Paper No. 10

GEZA C. ZIEGLER, JR.
PERMAN & GREEN, LLP
425 POST ROAD, FLOOR 2
FAIRFIELD, CT 06824

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MAR 0 8 2004

OFFICE OF PETITIONS

In re Application of
Taskett et al.
Application No. 10/364,648
Filed: February 11, 2003
Attorney Docket No. 770-011355-US (PAR)

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 25, 2004, to revive the above-identified application.

The petition is **granted.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed March 28, 2003. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on May 29, 2003. A Notice of Abandonment was mailed on February 3, 2004.

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

Petitioner submitted a total of $1180.00 towards payment of the Missing Parts fees. Effective October 1, 2003, certain patent fees were increased, including the basic filing fee and indepedent claims fee. Accordingly, an additional $22.00 has been charged to petitioner's deposit account as authorized.

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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Paper No.

FOLEY & LARDNER LLP
777 EAST WISCONSIN AVENUE
MILWAUKEE WI 53202-5306

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OFFICE OF PETITIONS

In re Patent No. 7,162,332	:	
Pillar et al.	:	
Issue Date: January 9, 2007	:	
Application No. 10/364,668	:	LETTER REGARDING
Filed: February 11, 2003	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 061300-0232	:	and
Title: TURRET DEPLOYMENT SYSTEM	:	NOTICE OF INTENT TO ISSUE
AND METHOD FOR A FIRE FIGHTING	:	CERTIFICATE OF CORRECTION
VEHICLE	:	

This is in response to the COMMUNICATION REGARDING PATENT TERM ADJUSTMENT filed June 15, 2006.

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

On January 9, 2007, the above-identified application matured into U.S. Patent No. 7,162,332, with a revised Patent Term Adjustment of 0 days.

Pursuant to 37 C.F.R. §1.702(a)(1), the Office is required 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). The application was filed on February 11, 2003, and the Office mailed a non-final action on May 21, 2004, which is fourteen months and 40 days after the filing of the application. See 37 CFR 1.703(a)(1).

Pursuant to 37 C.F.R. §1.702(a)(2), the Office is required to respond to a reply under 35 U.S.C. § 132 not later than four months after the date on which the appeal was taken. A response

to the non-final action was received on August 20, 2004, and an office action was not mailed until February 18 2005, which is four months and 60 days after the receipt of the response. See 37 CFR 1.703(a)(2).

Pursuant to 37 C.F.R. §1.702(a)(1), the Office is required to issue a notice of allowance not later than four months after the receipt of a reply under 35 U.S.C. § 132. A Request for Continued Examination (RCE) was filed on October 28, 2005, and a notice of allowance and issue fee due was not mailed until April 4, 2006, which is four months and 35 days after the receipt of the RCE. See 37 CFR 1.703(a)(2).

Pursuant to 37 C.F.R. §1.702(a)(4), the Office is required to issue a patent not later than four months after the receipt of the issue fee. The issue fee was paid on June 15, 2006, and the present patent did not issue until January 9, 2007, which is four months and 86 days after the receipt of the RCE. See 37 CFR 1.703(a)(6).

Consequently, there were 221 (40 + 60 + 35 + 86) days of PTO delay.

Pursuant to 37 CFR § 1.704(c)(8), the submission of a supplemental reply after a reply has been filed is a failure to engage in reasonable efforts to conclude prosecution. A response to an Office action was filed on August 20, 2004, and an information disclosure statement (IDS) was filed on December 3, 2004. This IDS was not expressly requested by the examiner and did not include a § 1.704(d) statement. This constitutes a delay of 105 days.

A response to an Office action was filed on October 28, 2005. Petitioner has indicated that a supplemental reply was filed on October 31, 2005. This response was not expressly requested by the examiner. This constitutes a delay of 3 days.

Another IDS was filed on February 13, 2006. This constitutes a delay of 105 days from the filing of the supplemental reply of October 31, 2005.

It is noted that a period of reduction of 120 days was entered for the filing of this candor letter. § 1.704(e) provides that:

Submission of an application for patent term adjustment under § 1.705(b) (with or without request under § 1.705(c) for reinstatement of reduced patent term adjustment) will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraph (c)(10) of this section.

This provision covers candor letters pursuant to comment 43 of the final rule. Therefore, the Patent Term Adjustment was incorrectly reduced. Consequently 120 days will be properly restored to patentees patent term adjustment.

Thus, the proper period of reduction is 212 (105 + 3 + 105) days.

In view thereof, the patent should have issued with a revised patent term adjustment of 8 days.

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

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 **EIGHT (8)** days.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,162,332 B2

DATED : **January 9, 2007**

INVENTOR(S) : Pillar 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 0 days

Delete the phrase "by 0 days" and insert – by 8 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

OGILVY RENAULT
1981 MCGILL COLLEGE AVENUE
SUITE 1600
MONTREAL, QC H3A2Y-3 CA
CANADA

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SEP 2 9 2003

OFFICE OF PETITIONS

In re Application of :
Gérald Duhamel :
Application No. 10/364,673 : DECISION ON PETITION
Filed: February 12, 2003 :
Attorney Docket No. :
14296-23US JA/Id :

This is a decision on the petition filed August 29, 2003, under 37 CFR 1.137(b), to revive the above-identified application. The petition is being treated under the unintentional provisions of 37 CFR 1.137(f).

This Petition is hereby **granted**.

The above-identified application became abandoned pursuant to 35 USC 122 (b)(2)(B)(iii) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multinational international agreement, the 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[1]; (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 Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant petition has been found 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 as provided by 35 USC 122(b)(2)(B)(iii) is accepted as having been unintentionally delayed.

[1] The filing of a petition under this section will not relieve application of the obligation to reply to any outstanding Office action.

The application file is being forwarded to Technology Center 3700 for examination in due course.

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

Derek L. Woods
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FINNEGAN HENDERSON FARABOW GARETT & DUNNER
1300 I STREET NW
WASHINGTON DC 20005-3315

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
German Arciniegas et al :
Application No. 10/364,685 :
Filed: February 10, 2003 :
Attorney Docket No. 9136.0003 :

This is a decision on the petition, filed August 26, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 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 (703) 305-8859.

The examiner of Technology Center AU 2839 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
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. _____

Date : August 27, 2004

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of **Application No. 10/364,685**

Applicant(s) : German Arciniegas et al
Application No. : 10/364,685
Filed : February 10, 2003

The above-identified application has been assigned Patent No. 6,789,951 and an issue date of September 14, 2004.

It is hereby directed that this application be withdrawn from issue at the request of the applicant. Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of September 14, 2004:

"All reference to Patent No. 6,789,951 to German Arciniegas et al of California for SMALL FORM-FACTOR PLUGGABLE BAIL LATCH appearing in the Official Gazette of September 14, 2004 should be deleted since no patent was granted."

Karen Creasy

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

cc: Paul Harrison; Crystal Park 3, Suite 441 (FAX-703-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-910 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane Davis (CDS), CM1-6A07
Tamara K. Greene, PK3-910

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 1 1 2003

OFFICE OF PETITIONS

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60611

In re Application of
Kempf et al.
Application No.10/364,686
Filed: February 11, 2003
Attorney Docket No.10745/103

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR § 1.47(a), filed June 23, 2003 (certificate of mailing date June 18, 2003). 7

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

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR. § 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application**. Any extensions of time will be governed by 37 CFR. §1.136(a).

The above-identified application was filed on February 11, 2003, without an executed oath or declaration. Accordingly, on March 18, 2003, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring for the purposes of this decision, an executed oath or declaration in compliance with § 1.63, and a surcharge for its late filing. This Notice set an extendable two-month period for reply of May 18, 2003.

In reply, applicant filed a petition, the surcharge for late filing of the declaration, and a partially executed declaration. To make the reply timely, a one (1) month extension of time was also submitted. In support of the petition, applicants submitted the declaration of Tadashi Horie, Patent Attorney, Confidentiality and Assignment Agreement for Independent Contractor signed by the non-signing inventor, and copies of correspondence to the non-signing inventor.

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

As to item (2), the last known address provided in the petition differs from the address provided on the declaration. Non-signing inventor Silverberg address can be corrected via an application data sheet. The last known home address of non-signing inventor

should be provided. See 37 CFR 1.76.

As to item (4), 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. See MPEP 605.03.

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

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

Telephone inquiries related to this decision may be directed to the undersigned at (703) 306-0251.

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 7

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60611

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APR 07 2004

OFFICE OF PETITIONS

In re Application of
James Kempf, Craig Gentry and Alice Silverburg
Application No.10/364,686
Filed: February 11, 2003
Attorney Docket Number: 10745/103
Title of Invention: SECURING NEIGHBOR DISCOVERY USING ADDRESS BASED KEYS

DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is in response to the renewed petition under 37 CFR 1.47(a), filed August 11, 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. Specifically, the petition states a copy of the application was sent to non-signing inventor's last known address. Further communications with the non-signing inventor failed to yield an executed declaration. The non-signing inventor's failure to respond to the application sufficiently establishes that she refuses to execute the application papers.

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

The address of the non-signing inventor provided on the declaration differs from the address provided in the petition. Petitioner is required to submit the address where non-signing inventor receives mail via a declaration or an application data sheet.

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

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

Telephone inquiries related to this decision may be directed to the undersigned at (703) 306-0251.

Charlema R. Grant
Petitions Attorney
Office of Petitions

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Alice Silverburg
231 W 18 Avenue
Columbia, Ohio 43210-1174

In re Application of
James Kempf, Craig Gentry and Alice Silverburg
Application No.10/364,686
Filed: February 11, 2003
Attorney Docket Number: 10745/103
Title of Invention: SECURING NEIGHBOR DISCOVERY USING ADDRESS BASED KEYS

: LETTER

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APR 0 7 2004

OFFICE OF PETITIONS

Dear Ms. Silverburg:

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

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Charlema R. Grant at (703) 306-0251. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper In the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Charlema R. Grant
Petitions Attorney
Office of Petitions

Vincent Gnoffo
BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO IL 60611

UNITED STATES PATENT AND TRADEMARK OFFICE

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MORRISS O'BRYANT COMPAGNI, P.C.
136 SOUTH MAIN STREET
SUITE 700
SALT LAKE CITY UT 84101

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APR 11 2005

OFFICE OF PETITIONS

In re Application of :
Joel Quinn :
Application No. 10/364,734 : DECISION ACCORDING STATUS
Filed: February 11, 2003 : UNDER 37 CFR 1.47(b)
For: Coaxial Seal for a Pump :

This is in response to the "Petition Under 37 CFR 1.47(b)," filed February 11, 2003. The petition was recently forwarded to the Office of Petitions for a decision on the merits. The Office apologizes for any inconvenience.

The petition is granted.

Petitioner has shown that Joel Quinn, 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, Julie K. Morriss establishes that the inventor was mailed the application papers, including the specification, claims and drawings, but refused the request to sign the declaration. In addition, petitioner submitted an assignment document to show that Enviro Tech Pumpsystems, Inc. has a proprietary interest in the above-identified application. The petition fee has been paid. Lastly, petitioner filed a declaration in compliance with 37 CFR 1.63 and 1.64 and demonstrated that petitioner has shown that such action is necessary to prevent irreparable damage.

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

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

This matter is being referred to the Office of Patent Publications.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3211.

Christina T. Donnell

Christina Tartera Donnell
Senior 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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www.uspto.gov

Joel Quinn
1108 Chavez Drive
South Jordan, UT 84095

COPY MAILED

APR 11 2005

OFFICE OF PETITIONS

In re Application of :
Joel Quinn :
Application No. 10/364,734 : LETTER
Filed: February 11, 2003 :
For: Coaxial Seal for a Pump :

Dear Mr. Quinn:

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

MORRISS O'BRYANT COMPAGNI, P.C.
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SUITE 203
MADISON WI 53711

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MAR 19 2008

OFFICE OF PETITIONS

In re Application of :
John K. Fink et al :
Application No. 10/364,748 : DECISION GRANTING PETITION
Filed: February 11, 2003 : UNDER 37 CFR 1.137(b)
Attorney Docket No. UM-07745 :

This is a decision on the petition under 37 CFR 1.137(b), filed August 16, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an RCE/Amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply received August 16, 2007, is accepted as having been unintentionally delayed.

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 $2,160 extension of time submitted with the petition on August 16, 2007, was subsequent to the maximum period obtainable for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

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 matter is being referred to Technology Center AU 1634.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

cc:

ROBERT A. GOETZ
101 HOWARD STREET,
SUITE 350
SAN FRANCISCO, CA 94105

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Casimir Jones, S.C.
2275 DEMING WAY, SUITE 310
MIDDLETON, WI 53562

Mail Date: 04/21/2010

Applicant	: John K. Fink	: DECISION ON REQUEST FOR
Patent Number	: 7582425	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/364,748	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/11/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1019** 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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2600 ARAMARK TOWER
PHILADELPHIA, PA 19107-2950

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OFFICE OF PETITIONS

In re Application of :
Fritz Schneider :
Application No. 10/364,784 : DECISION ON PETITION
Filed: February 11, 2003 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 26,700 USA :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed July 25, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to prior-filed PCT Application No. PCT/EP01/09212, filed August 9, 2001, set forth in the amendment submitted concurrently with the instant petition.

The petition is **GRANTED**.

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

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

The petition satisfies the above requirements. Accordingly, the claim for priority is accepted as having been unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that 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 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 should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

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

Any inquiries concerning this decision may be directed to Angela Ortiz at (571) 272-6051, or in her absence, the undersigned at (571) 272-3217. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to the examiner of Technology Center Art Unit 1733 for appropriate action on the amendment filed July 25, 2005, including consideration of applicant's entitlement to claim benefit of priority under 35 U.S.C. §§ 120 and 365(c) to the prior-filed application.

Frances Hicks for
Brian Hearn
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Paper No.

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ST. LOUIS, MO 63102

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JAN 12 2006

OFFICE OF PETITIONS

In re Application of	:	
Davidson et al.	:	DECISION ON APPLICATION
Application No. 10/364,792	:	FOR
Filed: February 11, 2003	:	PATENT TERM ADJUSTMENT
Atty Docket No. 780396.92280	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT PURSUANT TO 37 CFR §1.705" filed November 28, 2005. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b)(3)(B)(i) be corrected from three hundred seventy-one (371) days to three hundred seventy-five (375) days.

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

On August 26, 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 371 days. On (Monday) November 28, 2005, applicants timely[1] submitted an application for patent term adjustment (with required fee), asserting that the correct number of days of PTA at the time of the mailing of the Notice of Allowance was 375 days. Applicants dispute the reduction of 4 days associated with the filing of a response after non-final on July 25, 2005. Applicants state that they mailed the Response, including a certificate of mailing, on July 21, 2005,

[1] PALM records indicate that the Issue Fee payment was also received on November 28, 2005.

within the three (3) month period from the mailing of the non-final Office action mailed April 21, 2005.

Applicants state that the present patent is not subject to a terminal disclaimer.

Applicants are incorrect. 37 CFR § 1.704(b) provides that:

> With respect to the grounds for adjustment set forth in §§ 1.702(a) through (e), and in particular the ground of adjustment set forth in § 1.702(b), an applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request, measuring such three-month period from the date the notice or action was mailed or given to the applicant, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date that is three months after the date of mailing or transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed. The period, or shortened statutory period, for reply that is set in the Office action or notice has no effect on the three-month period set forth in this paragraph.

Moreover, 37 CFR 1.703(f) provides that the date indicated on any certificate of mailing or transmission under 37 CFR 1.8 shall not be taken into account in this calculation. The date indicated on a certificate of mailing is used only to determine whether the correspondence is timely (including whether any extension of the time and fee are required) so as to avoid abandonment of the application or termination or dismissal of proceedings. The actual date of receipt of the correspondence in the Office is used for all other purposes. See 37 CFR 1.8(a). Thus, while the date indicated on any certificate of mailing or transmission under 37 CFR 1.8 will continue to be taken into account in determining timeliness, the date of filing (37 CFR 1.6) will be the date used in a patent term adjustment calculation. Applicant may wish to consider the use of the "Express Mail Post Office to Addressee " service of the

United States Postal Service (37 CFR 1.10) or facsimile transmission (37 CFR 1.6(d)) for replies to be accorded the earliest possible filing date for patent term adjustment calculations. Alternatively, applicant may choose to mail correspondence with sufficient time to ensure that the correspondence is received in the Office (and stamped with a date of receipt) before the expiration of the three-month period. See MPEP 2731.

Accordingly, pursuant to § 1.704(b), the period of adjustment was properly reduced by 4 days, the number of days, beginning on July 22, 2005, the day after the date that is three months after the date of mailing of the non-final Office action, and ending on July 25, 2005, the date of filing of the reply.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is three hundred seventy-one (371) days.

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

The Office will forward the file to the Office of Patent Publication so that the application can be issued in a timely manner.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

04 JAN 2005

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COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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FOLEY & LARDNER
777 East Wisconsin Avenue
Suite 3800
Milwaukee, WI 53202-5308

In re Application of:	:	
WIKOWSKI, et al.	:	
U.S. Application No.: 10/364,794	:	DECISION ON PETITION
U.S. Filing Date: February 11, 2003	:	
Attorney's Docket No.: 026032-4156	:	
For: COMMUNICATION SYSTEM FOR VEHICLE	:	

This decision is issued in response to applicants' "Petition For Supervisory Review Pursuant To 37 CFR 1.181(a)(3)" filed 06 October 2003. No petition fee is required.

BACKGROUND

Applicants filed the present application on February 11, 2003. The Application Data Sheet (ADS) filed with the application stated that the present application is a continuation of U.S. application 10/127,982, which is a continuation of U.S. application 09/979,199, which is a national stage of PCT/US00/14692, which claimed benefit of U.S. provisional application 60/135,979.

On 22 August 2003, the USPTO issued a filing receipt. The priority data on the filing receipt identified the application as a continuation of 10/127,982, but did not include any of the additional priority information listed in the ADS and the first sentence of the specification.

On 02 September 2003, applicants filed a "Request For Corrected Filing Receipt" seeking to have the additional priority information listed in the ADS added to the filing receipt.

On 03 September 2003, the USPTO mailed a "Response To Request For Corrected Filing Receipt" that stated that the USPTO was unable to comply with the request because "a claim for priority cannot be made based on an application filed after the application making the claim. 09/979,199 filing date 4/29/02."

On 06 October 2003, applicants filed the present petition again seeking to have the additional priority information listed in the ADS added to the filing receipt.

DISCUSSION

The objection to applicants' request for a corrected filing receipt raised in the "Response To Request For Corrected Filing Receipt" mailed 03 September 2003 was that U.S. application

10/127,982 cannot be a continuation of U.S. application 09/979,199 because the filing date of 09/979,199 (4/29/02) is later than the filing date of 10/127,982 (4/23/02). However, as pointed out by applicants in the present petition, application number 09/979,199 is a U.S. national stage of PCT/US00/14692 filed under 35 U.S.C. 371. The relevant filing date for a U.S. national stage application (such as 09/979,199) is the international filing date, not the date of completion of the 35 U.S.C. 371(c) requirements which is entered into the PALM system as the "filing date" of the national stage application (See MPEP § 1893.03(b): "the filing date of the international stage application is also the filing date for the national stage application.").

Based on the above, the relevant date with respect to national stage application 09/979,199 is the international filing date of PCT/US00/14692 (5/26/00) rather than the 35 U.S.C. 371(c) date relied upon in the "Response To Request For Corrected Filing Receipt" (4/29/02). Because the 5/26/00 international filing date is well before the filing date of U.S. application 10/127,982 (4/23/02), applicants' claim that 10/127,982 is a continuation of national stage application 09/979,199 is not barred by the later 4/29/02 "filing date" (i.e., 35 U.S.C. 371(c) date) assigned to national stage application 09/979,199 in the PALM system.

The granting of this petition should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed applications listed in the ADS and hereby added to the filing receipt. In order for the instant application to be entitled to the benefit of the prior-filed applications, all the requirements under 35 U.S.C. 119(e) and 120 and 37 CFR 1.78(a) must be satisfied. Similarly, the fact that the corrected filing receipt accompanying this decision includes the prior-filed applications should not be construed as meaning that applicants are entitled to the claim for benefit of priority on the prior-filed applications noted thereon. The examiner will, in due course, consider the benefit claims and determine whether the instant application is entitled to the benefit of the earlier filing dates.

CONCLUSION

Applicants' petition under 37 CFR 1.181 is **GRANTED**.

A Replacement Filing Receipt is mailed herewith and includes the requested priority information.

Boris Milef
PCT Legal Examiner
PCT Legal Office

RMR/BM:rmr

Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/364,794	02/11/2003	2682	1198	026032-4155	13	33	4

CONFIRMATION NO. 8374

26371
FOLEY & LARDNER
777 EAST WISCONSIN AVENUE
SUITE 3800
MILWAUKEE, WI 53202-5308

REPLACEMENT FILING RECEIPT

OC000000014323356

Date Mailed: 11/09/2004

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Todd R. Witkowski, Zeeland, MI;
Kurt A. Dykema, Holland, MI;
Steven L. Geerlings, Zeeland, MI;
Mark L. Zeinstra, Holland, MI;
Robert F. Buege, Lowell, MI;

Assignment For Published Patent Application

Johnson Controls Technology Company

Power of Attorney:

JOHN C. COOPER III--26416
Russell J. Barron--29512
Michael Rechtin--30128
Barry L. Grossman--30844
James Morrow--32505
James Wilke--34279
Charles G. Carter--35093
Joseph Ziebert--35421
Richard McKenna--35610
Todd A. Rathe--38276

Domestic Priority data as claimed by applicant

This application is a CON of 10/127,982 04/23/2002
which is a CON of 09/979,199 04/29/2002
which is a 371 of PCT/US00/14692 05/26/2000
which claims benefit of 60/135,979 05/26/1999

Foreign Applications

If Required, Foreign Filing License Granted: 03/31/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is
US10/364,794

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Communication system for vehicle

Preliminary Class

455

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

GRANTED

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

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

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

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

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Paper No. 6

Alan D. Miller
Amster, Rothstein & Ebenstein
90 Park Avenue
New York, NY 10016

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DEC 0 1 2003

OFFICE OF PETITIONS

In re Application of	:	
Klein, Ojamaa, and Danzi	:	DECISION ACCORDING
Application No. 10/364,800	:	STATUS UNDER
Filed: February 11, 2003	:	37 CFR 1.47
Attorney Docket No. 50425/168	:	
For: METHOD FOR TREATING HYPOTHYROIDISM	:	

This is in response to the petition under 37 CFR 1.47(a) filed October 23, 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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P.O. Box 1450
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Ira Lee Zebrak
The BOC Group, Inc.
Legal Services - Intellectual Property
100 Mountain Ave.
Murray Hill, NJ 07974

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APR 2 9 2005

OFFICE OF PETITIONS

In re Application of

Roberts and Pozniak

Application No. 10/364,809

Filed: February 11, 2003

Attorney Docket No. M02A215

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed April 20, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the non-final Office action mailed October 19, 2004, which set a shortened statutory period for reply of three (3) months. No extension of time was obtained within the allowable period. Accordingly, the application became abandoned on January 20, 2005.

The request for an extension of time within the third month is noted, however; it cannot be granted, nor is it necessary. The request was made outside the maximum statutory period set for reply. The amount of $1,020.00 will be refunded to deposit account 02-2865, accordingly.

The application is being forwarded to Technology Center 1700 for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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CHIEF PATENT COUNSEL
SMITH & NEPHEW, INC.
1450 BROOKS ROAD
MEMPHIS, TN 38116

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JAN 19 2006

OFFICE OF PETITIONS

In re Application of

Smothers, et al.

Application No. 10/364,859

Filed: February 11, 2003

Attorney Docket No. 50642/270193

: DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181(a) to withdraw the holding of abandonment, filed October 13, 2005.

The petition under 37 CFR 1.181(a) to withdraw the holding of abandonment is **granted**.

This application was held abandoned on May 17, 2005, after it was believed that no response was received to the non-final Office action mailed February 16, 2005. The non-final Office action allowed a period for reply of three months from its mailing date. Extensions of the time set for reply were available pursuant to 37 CFR 1.136(a). A Notice of Abandonment was mailed on October 4, 2005, indicating that a reply to the non-final Office action was not received.

The instant petition maintains that an amendment responsive to the non-final Office action was transmitted via facsimile on August 3, 2005, along with a request fro an extension of time within the third month. The petition was accompanied by a copy of the amendment containing a certificate of mailing executed by Sue Haugen and dated August 3, 2005, and a statement from Ms. Haugen. A copy of the facsimile confirmation sheet evidencing that all pages of the response were transmitted successful on August 3, 2005 also accompanied the petition.

Based on the aforementioned, it appears that the application was improperly held abandoned as a proper response was received prior to expiration of the statutory period for reply. The holding of abandonment is withdrawn, accordingly. No petition fee is due.

The application file is being forwarded Technology Center 3700, GAU 3732, for further processing.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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

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OCT 1 0 2003

OFFICE OF PETITIONS

In re Application of :
Charles S. Zuker, Jon E. :
Adler, Mark Hoon, Nick Ryba : DECISION GRANTING PETITION
and Ken Mueller : UNDER 37 CFR 1.47(a)
Application No. 10/364,861 :
Filed: February 10, 2003
Title: SF, A NOVEL FAMILY OF
TASTE RECEPTORS

This is in response to the "Petition Under 37 CFR 1.47(a)," filed September 29, 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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OCT 1 0 2003

OFFICE OF PETITIONS

DR. JON E. ADLER
12320 S.W. MALLOY WAY
SHERWOOD, OR 97140

In re Application of
Charles S. Zuker, Jon E. Adler, Mark Hoon, Nick Ryba and Ken Mueller
Application No. 10/364,861
Filed: February 10, 2003
Title: SF, A NOVEL FAMILY OF TASTE RECEPTORS

Dear DR. JON E. ADLER:

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

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

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

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

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

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Paper No. None

HOWARD J. GREENWALD P.C.
349 W. COMMERCIAL STREET SUITE 2490
EAST ROCHESTER NY 14445-2408

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JAN 27 2006

OFFICE OF PETITIONS

In re Application of :
Gregory J. Wojak :
Application No. 10/364,863 : DECISION ON PETITION UNDER
Filed: February 11, 2003 : 37 C.F.R. §1.181(A)
Attorney Docket Number: GJW-9 :
Title: PROCESS FOR PREPARING A :
DIAMOND SUBSTANCE :

This is a decision on the petition under 37 CFR §1.181(a), filed January 6, 2006, to withdraw the holding of abandonment.

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed August 10, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time are permitted for transmitting issue fees[1]. Accordingly, the above-identified application became abandoned on November 11, 2005. A Notice of Abandonment was mailed on December 30, 2005.

With the present petition, petitioner has asserted that he did indeed submit the issue fee in a timely manner, and has included a copy of the issue fee transmittal form PTOL-85B, which contains not only an authorization to charge Deposit Account 50-2753, but a certificate of facsimile transmission dated November 9, 2005.

The electronic file has been reviewed, and a copy of this same PTOL-85B form has been located, and it is clear that this form was received on November 9, 2005.

However, the electronic file also contains a Notice of Fee Due, indicating that on November 10, 2005, Deposit Account 50-2753 contained a balance of $153. As such, it would appear that Petitioner failed to replenish his Deposit Account in a timely manner, and the same contained insufficient funds to cover the issue fee for the present application.

Therefore, the petition must be **DISMISSED**.

1 See MPEP §710.02(e).

Any reply must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition Under 37 C.F.R. §1.181." This is not a final agency action within the meaning of 5 U.S.C 704.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[2], hand-delivery[3], or facsimile[4].

Petitioner may wish to consider filing a petition under 37 C.F.R. §§1.137(a) or (b).

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

2 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
3 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
4 (571) 273-8300- please note this is a central facsimile number.

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MAR 30 2006

OFFICE OF PETITIONS

HOWARD J. GREENWALD P.C.
349 W. COMMERCIAL STREET SUITE 2490
EAST ROCHESTER NY 14445-2408

In re Application of :
Gregory J. Wojak :
Application No. 10/364,863 : DECISION ON PETITION UNDER
Filed: February 11, 2003 : 37 C.F.R. §1.137(B)
Attorney Docket Number: GJW-9 :
Title: PROCESS FOR PREPARING A :
DIAMOND SUBSTANCE :

This is a decision on the petition, pursuant to 37 C.F.R. §1.137(b)[1], to revive the above-identified application, filed on February 2, 2006.

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed August 10, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time are permitted for transmitting issue fees[2]. Accordingly, the above-identified application became abandoned on November 11, 2005. A Notice of Abandonment was mailed on December 30, 2005.

---

1 A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:
(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) the petition fee as set forth in § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

2 See MPEP §710.02(e).

On January 6, 2006, Petitioner filed a petition under 37 C.F.R. §1.181, to withdraw the holding of abandonment. This petition was dismissed via the mailing of a decision on January 27, 2006.

The issue fee was received on January 9, 2006. With the present petition, Petitioner has submitted the petition fee and the proper statement of unintentional delay.

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

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

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

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In re Patent No. 6857377
Issue Date: February 22,2005
Application No. 10364867
Filed: February 10,2003
Attorney Docket No.

:
: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.

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)
6857377	2005-02-22	10364867	2003-02-10	

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

The Assignee of record of the entire interest			
Under 37 CFR 3.71 an assignee becomes of record by filing a statement in compliance with 37 CFR 3.73(b). Signature requirements are set forth in 37 CFR 1.4(d), and the undersigned certifies that he / she is empowered to act on behalf of the assignee of the entire interest			
Signature	/Conrad Herring/	Date (YYYY-MM-DD)	2009-04-23
Name	Conrad Herring		
Enter Reel and Frame Number		Remove	
Reel Number	013999	Frame Number	0830
Click ADD for additional Reel Number and Frame Number		Add	

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

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN NJ 08830

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OFFICE OF PETITIONS

In re Patent No. 6,994,785 :
Issued February 7, 2006 :
Application No. 10/364,871 : ON PETITION
Filed: February 10, 2003 :
Attorney Docket Number: 092229-9039-01 :

This is a decision on the request for certificate of correction filed April 25, 2006, to correct the assignee's name on the front of the Patent, which is being treated as a request under 37 CFR 3.81(b)[1].

The petition is **GRANTED**.

The petition argues that the error in the name of the assignee committed on the PTOL-85B filed November 2, 2005 and was a mistake. Accordingly, petitioner requests that a certificate of correction be issued to correct the name of the assignee, in accordance with the assignment recorded September 30, 2004.

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 is accompanied by a certificate of correction (and fee) as required by 3.81(b). Further, Office assignment records reflect that USFILTER CORPORATION is the assignee of record. Accordingly, as the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to issue.

---

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

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

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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COMMISSIONER FOR PATENTS
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Paper No. 5

MINTZ, LEVIN, COHN, FERRIS, GLOVSKY
AND POPEO, P.C.
ONE FINANCIAL CENTER
BOSTON, MA 02111

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SEP 0 8 2003

OFFICE OF PETITIONS

In re Application of :
Luca Rastelli, Haihong Zhong, :
Ferenc Boldog, Esha Gangolli, : DECISION ACCORDING STATUS
Xiaojia Guo, Uriel Malyankar, : UNDER 37 CFR § 1.47(a)
Meera Patturajan, Carol Pena, :
Richard Skimkets, Kimberly Spytek, :
Corine Vernet, Daniel Rieger, :
Shlomit Edinger and :
Catherine Burgess :
Application No. 10/364,888 :
Filed: February 12, 2003 :
Attorney Docket No. 15966-744CIP :
Title: THERAPEUTIC POLYPEPTIDES, :
NUCLEIC ACIDS ENCODING SAME, AND :
METHODS OF USE :

This is a decision on the "Petition for Filing Patent Application on behalf of a nonsigning joint inventor under 37 C.F.R. § 1.47(a)," filed August 22, 2003.

The petition is **GRANTED**.

The above-identified application was filed on February 12, 2003, with an unexecuted declaration. Luca Rastelli, Haihong Zhong, Ferenc Boldog, Esha Gangolli, Xiaojia Guo, Uriel Malyankar, Meera Patturajan, Carol Pena, Richard Skimkets, Kimberly Spytek, Corine Vernet, Daniel Rieger, Shlomit Edinger and Catherine Burgess were named as joint inventors. Accordingly, on April 22, 2003, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring the missing items, including an executed oath or declaration and a surcharge for late filing. This Notice set a period for reply of two months from the mailing date of the Notice, with extensions of time obtainable under § 1.136(a).

On August 22, 2003, rule 47 applicants responded with five

declarations executed, in combination, by all of the joint inventors, except inventor Rastelli, on behalf of themselves and on behalf of non-signing inventor Rastelli; the late surcharge under § 1.16(e); and the instant petition (and petition fee). Rule 47 applicant maintains that status under 37 CFR 1.47 is proper because joint inventor Rastelli has refused to join in the application for patent.

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

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application after having been presented with the application papers. On petition and by declaration of legal specialist Nicole Carlucci, and supporting documentary evidence, petitioner has shown that inventor Rastelli, by his conduct in not responding to the presentation of the application papers and request to sign the declaration, has refused to join in the application.

The declarations filed August 22, 2003, and the petition have been reviewed and found in compliance with 37 CFR 1.47(a).

This application is hereby accorded Rule 1.47(a) status.

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

The application file is being returned to the Office of Initial Patent Examination for completion of pre-examination processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0309.

Nancy Johnson
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

LUCA RASTELLI
52 PEPPERBUSH LANE
GUILFORD, CT 06437

In re Application of :
Luca Rastelli, Haihong Zhong, :
Ferenc Boldog, Esha Gangolli, :
Xiaojia Guo, Uriel Malyankar, :
Meera Patturajan, Carol Pena, :
Richard Skimkets, Kimberly Spytek, :
Corine Vernet, Daniel Rieger, :
Shlomit Edinger and :
Catherine Burgess :
Application No. 10/364,888 :
Filed: February 12, 2003 :
Attorney Docket No. 15966-744CIP :
Title: THERAPEUTIC POLYPEPTIDES, :
NUCLEIC ACIDS ENCODING SAME, AND :
METHODS OF USE :

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SEP 0 8 2003

OFFICE OF PETITIONS

LETTER

Dear Mr. Rastelli:

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

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63. However, no action on your part is required for this patent to issue with you as a named inventor.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Nancy Johnson at (703) 305-0309.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Ivor Elrifi
MINTZ, LEVIN, COHN, FERRIS, GLOVSKY
AND POPEO, P.C.
ONE FINANCIAL CENTER
BOSTON, MA 02111
(617) 542-6000

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Parsons Behle & Latimer
Suite 1800
201 South Main Street
P. O. Box 45898
Salt Lake City, UT 84111

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OCT 10 2006

OFFICE OF PETITIONS

In re Application of	:	
Pearce	:	DECISION GRANTING PETITION
Application No. 10/364,903	:	UNDER 37 CFR 1.137(b)
Filed: February 11, 2003	:	
Atty. Dkt. No.: 5113 P	:	

This decision is in response to the petition under 37 CFR 1.137(b), filed July 21, 2006.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely submit a proper reply to the Notice of Allowance mailed March 22, 2006. The Notice set a three month statutory period of time for reply. Notice of Abandonment was mailed July 31, 2006.

A grantable petition under 37 CFR 1.137(b) requires submission of: (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 37 CFR 1.137(d).

The instant petition has been reviewed and found in compliance with the provisions of 37 CFR 1.137(b). Accordingly, the failure to timely submit a proper reply to the Notice is accepted as having been unintentionally delayed.

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

Telephone inquiries regarding 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
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FOLEY & LARDNER LLP
777 EAST WISCONSIN AVENUE, SUITE 3800
MILWAUKEE, WI 53202-5308

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OFFICE OF PETITIONS

In re Application of	:	
Duane R. Pillar et al	:	
Application No. 10/364,906	:	DECISION GRANTING PETITION
Filed: February 11, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 061300-0233	:	

This is a decision on the petition, filed November 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 October 5, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 3661 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

---

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

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OFFICE OF PETITIONS

WOLF, GREENFIELD, & SACKS, P.C.
FEDERAL RESERVE PLAZA
600 ATLANTIC AVENUE
BOSTON MA 02210-2206

In re Application of

WELLSTEIN, et al.
Application No. 10/364,907
Filed: February 10, 2003
Attorney Docket No. 544582000300

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 22, 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 Debra J. Glaister 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: **ANTON WELLSTEIN**
4406 VOLTA PLACE NW
WASHINGTON DC 20007

cc: **ROPES & GRAY LLP**
ONE INTERNATIONAL PLACE
BOSTON, MA 02110

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
10/364,907	02/10/2003	Anton Wellstein	544582000300

CONFIRMATION NO. 6754

OC000000021609871

WOLF, GREENFIELD, & SACKS, P.C.
Patricia Granahan, Sc.D.
Federal Reserve Plaza
600 Atlantic Avenue
Boston, MA 02210-2206

Date Mailed: 12/14/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/22/2006.

- 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.

MONICA A GRAVES
OP (571) 272-7253

FORMER ATTORNEY/AGENT COPY

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

Wolf, Greenfield & Sacks, P.C.
Patricia Granahan
Federal Reserve Plaza
600 Atlantic Avenue
Boston, MA 02210-2206

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MAR 17 2008

OFFICE OF PETITIONS

In re Application of
Wellstein et al.
Application No. 10/364,907
Filed: February10, 2003
Attorney Dkt. No. 544582000300

ON PETITION

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

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is not a final agency action within the meaning of 5 U.S.C. § 704.

This above-identified application became abandoned for failure to timely file a complete response to a non-final Office Action which was mailed on January 5, 2007. 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 April 6, 2007. A Notice of Abandonment was mailed on September 11, 2007.

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) .

As to item (1), an amendment and 37 CFR 1.63 declaration were submitted in reply to the January 5, 2007 non-final Office action. However, a review of the declaration shows that the signature block of inventor Ngaiza contains non-initialed alterations to the declaration. A newly executed declaration without alterations should be provided. Any changes made in ink in the application or oath prior to signing should be initialed and dated by the applicants prior to execution of the oath or declaration. The Office will not consider whether noninitialed and/or nondated alterations were made before or after signing of the oath or declaration but will require a new oath or declaration. See MPEP 605.04(a).

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.

Petitioner submitted a request for a three (3) month extension of time with the instant petition. However, pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988) Petitioner's six (6) month maximum extendable period expired on July 5, 2007. Petitioner is ineligible for any extensions of time. The $525.00 extension of time will be refunded.

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 matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Wolf, Greenfield & Sacks, P.C.
Patricia Granahan
Federal Reserve Plaza
600 Atlantic Avenue
Boston, MA 02210-2206

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MAY 19 2008

OFFICE OF PETITIONS

In re Application of :
Wellstein et al. :
Application No. 10/364,907 : ON PETITION
Filed: February10, 2003 :
Attorney Dkt. No. 544582000300 :

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

The petition is **GRANTED**.

This above-identified application became abandoned for failure to timely file a complete response to a non-final Office Action which was mailed on January 5, 2007. 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 April 6, 2007. A Notice of Abandonment was mailed on September 11, 2007. A petition under 37 CFR 1.137(b) was dismissed on March 17, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment and declaration, (2) the petition fee of $770.00; and (3) a statement of unintentional delay.

This application is being referred to Technology Center AU 1643 for appropriate action by the Examiner in the normal course of business on the reply received.

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
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Paper No.

ROBERT W. STROZIER
SUITE 930
2925 BRIARPARK DRIVE
HOUSTON, TX 77042

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JUN 17 2005

OFFICE OF PETITIONS

In re Application of :
Chen et al. :
Application No. 10/364,908 : DECISION ON
Filed: February 10, 2003 : PETITION
Atty Docket No. 96605/21UTL :
:

This is a decision on the Petition under 37 CFR 1.137(b), filed May 26, 2005.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a timely and proper reply to the non-final Office action mailed July 12, 2004. This Notice set a three (3) month period for reply, with extensions of time obtainable under §1.136(a). No extension of time having been obtained and no reply received, the above-identified application became abandoned effective October 13, 2004. A Notice of Abandonment was mailed on January 25, 2005.

Petitioner alleges that the Office action was not received. However, a review of the Office action reveals that it was mailed to the correspondence address of record. Petitioner has not made an adequate showing of non-receipt.

Petitioner has met the requirements for revival under § 1.137(b). On instant petition, petitioner submitted a reply, paid the petition fee and made the required statement of unintentional delay. Since this utility application was filed after June 8, 1995, no terminal disclaimer is required.

Accordingly, the petition is granted under §1.137(b).

This application file is being forwarded to Technology Center AU 1754 for consideration of the response.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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Paper No. 6

Michael A. Slavin
McHale & Slavin, P.A.
Suite 402
4440 PGA Boulevard
Palm Beach, Gardens FL 33410

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NOV 1 3 2003

OFFICE OF PETITIONS

In re Application of :
Paul Bullwinkel, Jim Seal and :
Keith A. Kopp :
Application No. 10/364,917 : ON PETITION
Filed: February 11, 2003 :
Title of Invention: LIQUID :
CRYSTAL DISPLAY PROJECTOR :

This is in response to a Petition under 37 CFR 1.47(a), filed September 22, 2003, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor(s).

The petition is **granted**.

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

Petitioner has shown that the non-signing inventor, Keith A. Kopp, refuses to join in the application after having been presented with 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 Declaration/Power of Attorney has been entered and made of record.

The application file is being returned to the Office of Initial Patent Examination for continued processing.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Michael A. Slavin
McHale & Slavin, P.A.
Suite 402
4440 PGA Boulevard
Palm Beach, Gardens FL 33410

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NOV 1 3 2003

OFFICE OF PETITIONS

In re Application of :
Paul Bullwinkel, Jim Seal and :
Keith A. Kopp :
Application No. 10/364,917 :
Filed: February 11, 2003 :
Title of Invention: LIQUID :
CRYSTAL DISPLAY PROJECTOR :

ON PETITION

This is a decision in response to the petition under 37 CFR 1.137(b), filed on September 22, 2003, to revive the above-identified application.

This Petition is hereby **dismissed**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application ("Notice") mailed March 21, 2003. The Notice set a reply period of two (2) months from the mail date of the Notice, and also provided for extensions of time under 37 CFR 1.136(a). The Notice required the basic filing fee, an executed Oath/Declaration, a late filing fee or oath or declaration surcharge, and replacement drawings in order to avoid abandonment.

In response to the Notice, Petitioner files the instant petition and executed oath/declaration. However, replacement drawings have not been filed.

Applicable Law

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 an amendment; a continuing application; a request for reconsideration, or a Request for Continued Examination; (**2**) the petition fee required by 37 CFR 1.17(m); (**3**) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (**4**) if required, a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)).

Applicant has not provided the required reply

As to item (1), the Notice of Allowability required replacement drawings. Petitioner has failed to comply with the Notice. Replacement Drawings must be filed.

The application file will be retained in the Office of Petitions to await the required reply.

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

Derek L. Woods
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 8

MICHAEL A. SLAVIN
McHALE & SLAVIN, P.A.
SUITE 402
4440 PGA BOULEVARD
PALM BEACH GARDENS, FL 33410

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JAN 3 0 2004

OFFICE OF PETITIONS

In re Application of :
Bullwinkle et al. :
Application No. 10/364,917 :
Filed: February 11, 2003 :
Attorney Docket Number: :
1267.014

This is a decision in response to the Renewed Petition under 37 CFR 1.137(b), filed November 28, 2003, to revive the above-identified application.

This Petition is hereby **granted**.

Background

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Provisional Application (hereinafter "Notice"), mailed March 21, 2003. The Notice required the basic filing fee, an executed oath/declaration, a late filing fee or oath or declaration surcharge, and replacement drawings in order to avoid abandonment. The Notice set a two (2) month period for reply from the mail date of the Notice, and also provided for extensions of time under 37 CFR 1.136(a). No reply having been received, the application became abandoned on May 22, 2003.

In response to the Notice, on September 22, 2003, Petitioner filed a petition to revive the application under 37 CFr 1.137(b), along with the basic filing fee, an executed oath/declaration and a late filing fee or oath or declaration surcharge; however, replacement drawings were not filed at that time.

That petition was dismissed in a Decision mailed November 13, 2003, for failing to file replacement in response to the Notice.

With the instant Renewed Petition, Petitioner has filed replacement drawings in response to the Notice and satisfied the requirements of a grantable petition under 37 CFR 1.137(b).

The application is being returned to the Office of Initial Patent Examination for continued processing.

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

Derek L. Woods
Petitions Attorney
Office of Petitions

#5 DW

UNITED STATES PATENT AND TRADEMARK OFFICE

JAN - 7 2004

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JAN - 7 2004

OFFICE OF THE DIRECTOR
TC 3600

SUMMA & ALLAN, P.A.
11610 NORTH COMMUNITY HOUSE ROAD
SUITE 200
CHARLOTTE, NC 28277

In re Application of:
James A. Lindsey, et al.
Serial No. 10/364,946
Filed: February 12, 2003
For: AUTOMATIC DEBRIS SEPARATION SYSTEM

DECISION ON PETITION TO MAKE SPECIAL (ENERGY)

This is a decision on the petition filed February 12, 2003 under 37 CFR 1.102 (c) to make the above-identified application special under the procedure set forth in MPEP 708.02, Section VI: Energy.

A grantable petition to make an application special under 37 C.F.R. 1.102 (c), MPEP 708.02, Section VI for an invention which materially contributes to (A) the discovery or development of energy resources, or (B) the more efficient utilization and conservation of energy resources must be accompanied by statements under 37 CFR 1.102 by applicants or their attorney explaining how the invention materially contributes to category (A) or (B) set forth above.

The petition states that the "present invention is useful for recovering polymeric material by removing metal debris from [recyclable] polymer fiber feedstocks". The petition also states that "Discarding, rather than recycling, the useful materials present in textile wastes necessarily leads to the production of replacement virgin polymer. Compared with reclaiming component materials from textile wastes according to the present invention, producing virgin polymer, such as nylon, not only produces more pollution, but also consumes more energy and resources". These statements, which evidence more efficient utilization and conservation of energy resources, are adequate to establish for the record that the invention "materially contributes to the development of energy resources".

For the above stated reasons, the petition is **GRANTED**.

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

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

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
(703) 308-2121

RAR/cps: 12/31/03

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WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA PA 19104-2891

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AUG 2 0 2007

OFFICE OF PETITIONS

In re Application of :
Spiridon Spireas :
Application No. 10/364,970 : DECISION ON PETITION
Filed: February 12, 2003 : TO WITHDRAW
Attorney Docket No. MPCI-0048 : 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 19, 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, "transfer of responsibility", 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 undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: BRENDAN MAGRAB, ESQUIRE
VICE PRESIDENT AND GENERAL COUNSEL
MUTUAL PHARMACEUTICAL COMPANY, INC.
1100 ORTHODOX STREET
PHILADELPHIA, PA 19124

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225 FRANKLIN STREET
BOSTON, MA 02110-2804

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DEC 04 2003

OFFICE OF PETITIONS

In re Application of
Robert E. Burrell et al
Application No. 10/364,983
Filed: February 12, 2003
Attorney Docket No. 14072-018002/W596a

ON PETITION

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

The petition is granted.

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

1. Robert E. Burrell
2. John B. Wright
3. Kan Lam
4. Hua Qing Yin
5. Antony G. Naylor
6. Peter H. Moxham
7. Scott H. Gillis
8. Paul Schechter

A corrected filing receipt with the desired order of inventorship is enclosed.

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

Enclosure: Corrected Filing Receipt

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DARBY & DARBY P.C.
P. O. BOX 5257
NEW YORK NY 10150-5257

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JUN 2 9 2006

OFFICE OF PETITIONS

In re Application of	:	
Serbanescu, Razz	:	DECISION ON PETITION
Application No. 10/365,009	:	TO WITHDRAW
Filed: February 12, 2003	:	FROM RECORD
Attorney Docket No. 04059/100K245-US1	:	

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 16, 2005 and July 7, 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 Melvin C. Garner on behalf of all attorneys of record who are associated with Customer Number 07278.

All attorneys/agents associated with Customer Number 07278 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 Razz Serbanescu at the address indicated below.

Telephone inquires concerning this decision should be directed to Petitions Examiner Liana Chase at (571) 272-3206. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

David Bucci
Petitions Examiner
Office of Petitions

Cc:

RAZZ SERBANESCU
624 EAST 20TH STREET, APT. 6B
NEW YORK, NY 10009

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:0628

DATE : June 28, 2005

TO SPE OF : ART UNIT 1724

SUBJECT : Request for Certificate of Correction on Patent No.: 6733568

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: Duane Smith **Art Unit** 1724

DUANE SMITH 6-28-07
SUPERVISORY PATENT EXAMINER

SPE D. Smith

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 10/365,014

Paper No.: _____

DATE : 6/16/05

TO SPE OF : ART UNIT 1724

SUBJECT : Request for Certificate of Correction on Patent No.: 6733568

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

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

Lamonte M. Newsome
Certificates of Correction Branch
Tel. No. 703-305-8309

Thank You For Your Assistance

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

☒ **Approved** (RHS 6/28/05) — **All** changes apply.

☐ **Approved in Part** — Specify below which changes **do not** apply.

☐ **Denied** — State the reasons for denial below.

Comments:

DUANE SMITH
SUPERVISORY PATENT EXAMINER
SPE 6-28-05

1724
Art Unit

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Gray Cary Ware & Freidenrich LLP
2000 University Avenue
E. Palto Alto, CA 94303-2248

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DEC 15 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

In re application of
Michael Arato et al
Application No.10/365,019
Filed: February 11, 2003
For: SYSTEM AND METHOD FOR EMERGENCY RESPONSE

: **DECISION ON PETITION**
: **TO MAKE SPECIAL**
: **(COUNTER TERRORISM)**

This is in response to the petition filed on June 16, 2003 to make the above-identified application special on the basis of inventions for countering terrorism as set forth in MPEP § 708.02 XI.

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); and (B) a statement explaining how the invention contributes to countering terrorism.

Applicant's declaration explains that the present invention contributes to countering terrorism by disclosing a system and method that provides public health and disaster management officials sensitive information regarding the scope and scale of perceived or actual threats or disasters. This system may provide a collaborative approach for countering bio-terrorism and other disasters. This is an acceptable explanation of how the invention would act to counter terrorism.

Since all of the requirements for special status under MPEP § 708.02 XI have been met, the petition is **GRANTED**.

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

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to

place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

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

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

kjd:12/14/04

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : August 17, 2006

TO SPE OF : ART UNIT 3724

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/365037 Patent No.: 7,025,251 B1

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: _____

BOYER D. ASHLEY
SUPERVISORY PATENT EXAMINER

SPE 3724 **Art Unit**

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KATE MURASHIGE
MORRISON & FOERSTER, LLP
12531 HIGH BLUFF DRIVE
SUITE 100
SAN DIEGO, CA 92130

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NOV 2 0 2006

OFFICE OF PETITIONS

In re Application of :
Clay Von Mueller, et al. :
Application No. 10/365,051 : DECISION ON PETITION
Filed: February 12, 2003 : TO WITHDRAW
Attorney Docket No. 03-SE/110 : 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 18, 2006.

The request is **APPROVED**.

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

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

Applicant is reminded that there is no attorney of record at this time.

There are no outstanding Office actions at the present time.

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: DANIEL N. YANNUI, ESQ.
SHEPPARD, MULLIN, RICHTER & HAMPTON LLP
12544 HIGH BLUFF DRIVE
SAN DIEGO, CA 90071-1448

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2000 BERING DRIVE
SUITE 700
HOUSTON, TX 77057

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JAN 31 2006

OFFICE OF PETITIONS

In re Application of :
Vaughn L. Bercaw et al. :
Application No. 10/365,103 : ON PETITION
Filed: February 12, 2003 :
Attorney Docket No.: BERCAW-001

This is a decision on the petition filed January 11, 2006 to withdraw the holding of abandonment, under 37 CFR 1.181.

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 two Notices of Allowance were mailed, that the second notice was not received, but that the Issue Fee was timely paid on September 27, 2005, in response to the second Notice of Allowance mailed July 18, 2005. Petitioner further argues that the Notice of Abandonment mailed November 11, 2005 was mailed in error and should be withdrawn.

A review of the file reveals that a Notice of Allowance and Issue Fee Due as well as a Notice of Allowability was mailed on June 22, 2005. Subsequent to a telephone conversation between the Examiner of Record and the Attorney of Record, the Examiner mailed a Supplemental Notice of Allowability on July 18, 2005. Petitioners believed based on information found in the USPTO PAIR website that the Notice of Allowance was also being re-mailed. Petitioners therefore inferred that the issue fee would be due three months from that date, or on October 18, 2005 and thus did not pay the issue fee based on what they believed to be the first of two Notices of Allowances.

Petitioners are advised that if an Office communication is mailed and that in the absence of that communication being withdrawn by the USPTO, then by law a response is required within the time period set out in the Office communication received. The failure to file a

response causes the application to become abandoned, even if that communication was sent in error or petitioners believed there to be an error. There is no evidence that a second Notice of Allowance was mailed. Although the information found in the USPTO PAIR website indicated it was a Notice of Allowance, it was in fact the Supplemental Notice of Allowability that was mailed on July 18, 2005, as a result of the conversation between the Examiner and the Attorney of Record.

If petitioner was confused by the information regarding two Notices of Allowance, located in the USPTO PAIR website, petitioner could have easily contacted the Examiner to determine if in fact a second Notice of Allowance was mailed with the Supplemental Notice of Allowability, prior to the expiration of the period for response.

This application properly became abandoned September 23, 2005 for failure to timely pay the Issue Fee and therefore the Notice of Abandonment mailed November 11, 2005 was appropriate.

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)[1] or 37 CFR 1.137(b),[2] which now provides that where the delay in reply was unintentional, a petition

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[1]A grantable petition under 37 CFR 1.137(a) must be accompanied by:

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

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

(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and

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

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

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In 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

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

(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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SUITE 700
HOUSTON, TX 77057

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OFFICE OF PETITIONS

In re Application of
Vaughn L. Bercaw et al.
Application No. 10/365,103
Filed: February 12, 2003
Attorney Docket No.: BERCAW-001

ON PETITION

This is a decision on the petition filed March 31, 2006, to revive the above identified application under 37 CFR 1.137(a)[1].

The petition to revive under 37 CFR 1.137(a) is **GRANTED**.

The application became abandoned September 23, 2005 for failure to timely pay the Issue Fee in response to the Notice of Allowance mailed June 22, 2005. Accordingly, a Notice of Abandonment was mailed on November 11, 2005.

The petition satisfies the requirements of 37 CFR 1.137(a) in that on September 27, 2005, petitioner supplied (1) the required reply in the form of the issue fee and publication fee; (2) the petition fee of $ 250.00 on March 31, 2006; and (3) a showing to the satisfaction of the Commissioner that the entire delay was unavoidable.

This matter is being referred to the Publishing Divison 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]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©)).

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MARTINE PENILLA & GENCARELLA, LLP
710 LAKEWAY DRIVE
SUITE 200
SUNNYVALE CA 94085

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OFFICE OF PETITIONS

In re Application of :
Mark :
Application No. 10/365,120 : ON PETITION
Filed: February 11, 2003 :
Attorney Docket No. SONYP021 :
For: METHOD AND APPARATUS FOR
REAL TIME MOTION CAPTURE

This is a decision on the petition under 37 CFR 1.181, filed November 12, 2007, requesting that the Office withdraw the holding of abandonment of the above-identified application.

The petition under 37 CFR 1.181 is **DISMISSED AS MOOT**.

Petitioner believes the Office holds this application abandoned due to the failure of applicant to respond in a timely manner to the non-final Office action, mailed April 17, 2007, which set forth an extendable three (3) month period for reply. While conducting a routine status inquiry on the file, petitioner noted that an amendment filed on certificate of mailing date July 17, 2007 was not present on Private PAIR. The filing of the present petition precedes the mailing of A Notice of Abandonment.

The petition is dismissed as moot because the amendment, filed on certificate of mailing date July 17, 2007 and received in the Office on July 20, 2007, is present in the application file. Therefore, the amendment was timely filed and the application never went abandoned. It is noted that the application is presently in pending status.

No petition fee has been or will be charged in connection with this matter.

Accordingly, the application file will be forwarded to Technology Center A.U. 2629 for consideration of the amendment filed on July 20, 2007 (certificate of mailing date July 17, 2007).

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Paper No. 6

Jonathan O. Owens
Haverstock & Owens, LLP
162 North Wolfe Road
Sunnyvale, CA 94086

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SEP 17 2004

OFFICE OF PETITIONS

In re Application of :
Fletcher H. Hyler :
Application No. 10/365,124 : ON PETITION
Filed: Februry 12, 2003 :
Attorney Docket No. HYLER-00100 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 23, 2004, to revive the above-identified application.

The application became abandoned for failure to timely respond to a Notice to File Corrected Application Papers mailed April 3, 2003. A Notice of Abandonment was mailed on April 3, 2003. In response the present petition was filed.

The petition is **GRANTED**.

The application is being referred to the Office of Initial Patent Examination (OIPE) for further processing.

Telephone inquires related to this decision should be directed to the undersigned at (703) 305-9220. Telephone inquiries related to OIPE processing should be directed to their hotline at (703) 308-1202.

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

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

Office of the Director
Group 3600

Paper No. 4

In re application of
David S. Breed
Application No. 10/365,129
Filed: February 12, 2003
For: REAR VIEW MIRROR MONITOR

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

This is a decision on the petition submitted on October 14, 2003 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

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

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

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

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

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

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

KJD/cps 11/4/03

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COMMISSIONER FOR PATENTS
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LAW TECHNOLOGY
5200 BAYWAY DRIVE
PO BOX 2149
BAYTOWN, TX 77520

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OCT 3 1 2003

OFFICE OF PETITIONS

In re Application of :
Mozeleski et al. :
Application No.: 10/365,132 : ON PETITION
Filing Date: February 12, 2003 :
Attorney Docket No.: 2001B073/2 :

This decision concerns the March 31, 2003 "Communication" and the August 29, 2003 "Request for Corrected Filing Receipt." The submissions are being properly treated as a petition under 37 CFR 1.53 that the above-referenced application be accorded a filing date of February 12, 2003.

The petition is **GRANTED.**

BACKGROUND

On February 12, 2003, the application was deposited.

On March 18, 2003, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Incomplete Nonprovisional Application" ("3/18/03 Notice"), stating that the application had been deposited without drawings, and was thus not accorded a filing date.

On March 31, 2003, Applicants filed the "Communication" along with 5 sheets of drawings, asserting that these drawings had been filed with the other application papers on February 12, 2003. Subsequently, a Filing Receipt was mailed, indicating that the application filing date had been changed to March 31, 2003.

DISCUSSION

The petition is accompanied by a copy of Applicants' postcard receipt, which appears to indicate receipt by the USPTO for this application on February 12, 2003 of, *inter alia*, 5 sheets of drawings. However, there is a stamped notation by OIPE on the application transmittal that "[t]he PTO did not receive the following listed item(s) 5 sheets of drawings." It is unclear whether OIPE affixed a similar stamped notation on the front of Applicants' postcard, since there does not appear to have sufficient space left on the back of the postcard.

However, as stated in MPEP § 601.01(f), it is the practice of the USPTO to treat an application that contains at least one process or method claim as an application for which a drawing is not

necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).

MPEP § 601.01(f) also states that:

> A nonprovisional application having at least one claim, or a provisional application having at least some disclosure, directed to the subject matter discussed above for which a drawing is usually not considered essential for a filing date, describing drawing figure(s) in the specification, but filed without drawings will be treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP § 601.01(g), so long as the application contains something that can be construed as a written description.

The instant application contains method claims. Therefore, the application should have been treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP § 601.01(g).

MPEP § 601.01(g) states that if an application is filed without all of the drawing figure(s) referred to in the specification, a "Notice of Omitted Item(s)" is mailed indicating that the application has been accorded a filing date, but is lacking some of the figures of drawings described in the specification.

CONCLUSION

In view of the above, the application upon filing on February 12, 2003 was entitled to a filing date. Therefore, the 3/18/03 Notice was mailed in error and is hereby vacated. The petition is thus granted.

The $130.00 petition fee charged to Deposit Account No. 05-1712 on April 4, 2003 has been credited to the same deposit account.

The application is being forwarded to OIPE for correcting the filing date to February 12, 2003, and for mailing a corrected filing receipt reflecting the corrected filing date. Thereafter, the application file will be returned to the Office of Patent Publication for processing into a patent.

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

John J. Gillon, Jr.
Senior 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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JOHN P. WHITE
COOPER & DUNHAM LLP
1185 AVENUE OF THE AMERICAS
NEW YORK, NY 10036

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JAN 25 2007

OFFICE OF PETITIONS

In re Application of	:	
Mor, Orna	:	
Application No. 10/365,135	:	ON PETITION
Filed: February 12, 2003	:	
Attorney Docket No. 66781-A/JPW/GAG	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed November 24, 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 1600 for further examination on the merits.

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

Liana Walsh
Petitions Examiner
Office of Petitions

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THE FARRELL LAW FIRM, LLP
290 Broadhollow Road
Suite 210E
Melville, NY 11747

Mail Date: 04/21/2010

Applicant	: Hi-Chan Moon	: DECISION ON REQUEST FOR
Patent Number	: 7623884	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/365,150	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/12/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **2038** 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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DTW May-06

RYAN, MASON & LEWIS, LLP
90 FOREST AVENUE
LOCUST VALLEY NY 11560

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MAY 12 2006

OFFICE OF PETITIONS

In re Application of	:	
Aytur and Belk	:	
Application No. 10/365,181	:	DECISION ACCORDING STATUS
Filed: 12 February, 2003	:	UNDER 37 CFR 1.47(a)
Atty Docket No. 4-10	:	

This is in response to the petition filed under 37 CFR 1.47(a) on 9 May, 2003.

The Office apologizes for the delay in responding to the present petition.

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventor could not be located despite diligent efforts. Specifically, petitioners have established that a letter sent to the last known address of the non-signing inventor was returned as undeliverable. Furthermore, petitioners have shown that despite diligent efforts, the non-signing inventor could not be located.

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

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

The application is being referred to Technology Center Art Unit 2821 for further processing.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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DFW May-06

Nathan R. Belk
92 Spruce Mill Lane
Scotch Plains, NJ 07076

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MAY 12 2006

OFFICE OF PETITIONS

In re Application of
Aytur et al.
Application No. 10/365,181
Filed: 12 February, 2003
For: COMMUNICATION SYSTEM TRANSMITTER OR RECEIVER MODULE HAVING INTEGRATED RADIO FREQUENCY CIRCUITRY DIRECTLY COUPLED TO ANTENNA ELEMENT

Dear Mr. Belk:

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 571/272-3231. Requests for information regarding your application should be directed to the File Information Unit at 571-272-3150. 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 571-272-3150 or 1-800-972-6382 (outside the Washington D.C. area).

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

RYAN MASON & LEWIS, LLP
90 FOREST AVENUE
LOCUST VALLEY, NY 11560

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LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD, NJ 07090

Mail Date: 04/21/2010

Applicant	: Hansen Yuan	: DECISION ON REQUEST FOR
Patent Number	: 7608095	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/365,182	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/12/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **18** 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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LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD, NJ 07090

Mail Date: 05/18/2010

Applicant : Hansen Yuan
Patent Number : 7608095
Issue Date : 10/27/2009
Application No: 10/365,182
Filed : 02/12/2003

: 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 **50** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

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

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

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FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW CA 94041

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OFFICE OF PETITIONS

In re Application of	:	
Or et al.	:	DECISION ON PETITION
Application No. 10/365,185	:	TO WITHDRAW
Filed: February 11, 2003	:	FROM RECORD
Attorney Docket No. 23202-07071	:	

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, 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 Michael W. Farn on behalf of all attorneys of record who associated with Customer Number 00758.

All attorneys/agents associated with Customer Number 00758 have been withdrawn. Applicants are reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named inventor; or (2) the assignee of the entire interest. All future communications from the Office will continue to be directed to the first named inventor at the first below-listed address until otherwise properly notified by the applicants.

There is an outstanding Office action mailed April 7, 2006 that requires a reply from the applicants.

Telephone inquires concerning this decision should be directed to Petitions Examiner Liana Chase at (571) 272-3206. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

David Bucci
Petitions Examiner
Office of Petitions

Cc:

YAN OR
217 AZALEA LANE
SAN RAMON, CA 94583

COLLATION, INC.
849 HIGH STREET
PALO ALTO, CA 94301

DUKE YEE
YEE & ASSOCIATES, P.C.
P.O. BOX 802333
DALLAS, TX 75380

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245 MAIN STREET
RACINE WI 53403

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OFFICE OF PETITIONS

In re Patent No. 7,032,524 :
Issued: 25 April, 2006 :
Application No. 10/365,213 : ON PETITION
Filed: 12 February, 2003 :
Atty Docket No. PSF-108US :

This is a decision on the petition filed on 6 April, 2006, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **granted**.

The processing fee will be charged to counsel's deposit account.

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

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

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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

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WILLIAM E. PELTON
COOPER & DUNHAM LLP
1185 AVENUE OF THE AMERICAS
NEW YORK, NY 10036

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MAY 2 2 2008

OFFICE OF PETITIONS

In re Application of :
EPSTEIN, Marc I. :
Application No. 10/365,219 : DECISION ON PETITION
Filed: February 12, 2003 : TO MAKE SPECIAL UNDER
Attorney Docket No. **6818/68500** : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed April 23, 2008, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a statement by Marc Epstein attesting that he is over 65 years of age. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 3725 for action on the merits commensurate with this decision.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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NORTH OAKS PATENT AGENCY
45 ISLAND ROAD
NORTH OAKS MN 55127

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OCT 23 2009

OFFICE OF PETITIONS

In re Patent No. 6,905,579 :
Issue Date: June 14, 2005 :
Application No. 10/365,232 : ON PETITION
Filed: February 13, 2003 :
Attorney Docket No. S66-006-01-US :
//225.009US01

This is a decision on the petition under 37 CFR 1.378(c), filed September 3, 2009, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on June 15, 2009 for failure to pay the 3 ½ year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

Pursuant to petitioner's authorization, deposit account no. 50-2432 will be charged the $490.00 3 ½ year maintenance fee and the $1,640.00 surcharge.

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. 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 the delay in paying the maintenance fee under 37 CFR 1.378(c) was intentional, practitioner must notify the Office.

The address listed on the petition and the correspondence address of record are different. Practitioner will not receive future correspondence related to maintenance fees for the patent unless a "Fee Address" Indication Form (see PTO/SB/47) and Request for Customer Number (see PTO/SB/125) are submitted. As a one time courtesy, a copy of this decision is being mailed to the address listed on the petition.

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)272-3230.

The patent file is being forwarded to Files Repository.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

CC: JON M. POWERS
FOGG & POWERS LLC
5810 W. 78TH ST. STE. 100
MINNEAPOLIS MN 55439

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RICHARD R. MICHAUD
THE MICHAUD-DUFFY GROUP, LLP
306 INDUSTRIAL PARK ROAD, SUITE 206
MIDDLETOWN, CT 06457

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JAN 2 6 2006

OFFICE OF PETITIONS

In re Application of :
Glennis J. Orloff et al :
Application No. 10/365,238 : ON PETITION
Filed: February 12, 2003 :
Attorney Docket No. 6579-661

This is a decision on the petition, filed January 18, 2006 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

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

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

This matter is being referred to Technology Center AU 3724 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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FROMMER LAWRENCE & HAUG LLP
745 FIFTH AVENUE
NEW YORK NY 10151

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MAR 13 2008

OFFICE OF PETITIONS

In re Application of	:	
Ivan Rafoss	:	
Application No. 10/365,253	:	DECISION GRANTING PETITION
Filed: February 12, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 515858-2006	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 11, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 31, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 3772 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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

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KLARQUIST SPARKMAN, LLP
121 SW SALMON STREET
SUITE 1600
PORTLAND, OR 97204

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MAR 0 8 2007

OFFICE OF PETITIONS

In re Application of :
Helmut Bruckmueller :
Application No. 10/365,256 : DECISION ON PETITION
Filed: February 11, 2003 :
Attorney Docket No. 6753-63361 :

This is a decision on the petition under 37 CFR 1.182, filed, August 11, 2006, to correct the spelling of the name of inventor "Helmut Brueckmueller" to – Helmut Bruckmueller --.

The petition is **GRANTED**.

Office records have been corrected to reflect the correct spelling of the above-named inventor. A corrected Filing Receipt, which sets forth the correct spelling of the above-named inventor, accompanies this decision on petition.

As previously authorized on July 20, 2005, the $400 fee for the petition under 37 CFR 1.182 and the $100 certificate of correction fee has been assessed to petitioner's deposit account.

Any questions concerning this matter may be directed to Irvin Dingle at (571) 272-3210.

The matter is being referred to Certificate of Correction Branch.

Irvin Dingle
Petition 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
10/365,256	02/11/2003	3747	2421	6753-63361	148	10

CONFIRMATION NO. 6352

24197
KLARQUIST SPARKMAN, LLP
121 SW SALMON STREET
SUITE 1600
PORTLAND, OR 97204

CORRECTED FILING RECEIPT

OC000000022786378

OC000000022786378

Date Mailed: 03/07/2007

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)

Helmut Bruckmueller, Unterloiben, AUSTRIA;

Power of Attorney:

Kenneth Klarquist--16445
Arthur Whinston--19155
James Leigh--20434
John Stuart--24540
David Petersen--28106
Richard Polley--28107
Ramon Klitzke III--30188
William Noonan--30878
John Vandenberg--31312
Garth Winn--33220

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/434,565 12/18/2002

Foreign Applications

If Required, Foreign Filing License Granted: 03/31/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/365,256

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

SWASH PLATE COMBUSTION ENGINE AND METHOD

Preliminary Class

123

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

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

date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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NOT GRANTED

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

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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CARSTENS YEE & CAHOON LLP
P O BOX 802344
DALLAS, TX 75380

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JUL 2 1 2004

OFFICE OF PETITIONS

In re Application of :
Marc Alan Sherman et al :
Application No. 10/365,259 : NOTICE
Filed: February 12, 2003 :
Attorney Docket No. AAMTC.0102 :

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.**

Small entity status has been removed and all future fees should be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (703) 305-8680.

This matter is being referred to Technology Center AU 3629 for examination in due course.

Frances Hicks
Petitions Examiner
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)
6675516	2004-01-13	10365274	2003-02-12	1146.001

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	/WBUSKOP/	Date (YYYY-MM-DD)	2008-03-20
Name	Wendy Buskop	Registration Number	32202

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

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Patent No. 6675516
Issue Date: January 13,2004
Application No. 10365274
Filed: February 12,2003
Attorney Docket No. 1146.01

:

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

:

This is a decision on the electronic petition, filed March 20,2008 ,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 March 20,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Jeffer, Mangels, Butler & Marmaro LLP
Seventh Floor
1900 Avenue of the Stars
Los Angeles, CA 90067

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FEB 07 2005

OFFICE OF PETITIONS

In re Application of :
Tiffany Boxer, et al. :
Application No. 10/365,275 : ON PETITION
Filed: February 11, 2003 :
Attorney Docket No. 57210-5019 :

This is a decision on the petition filed December 2, 2004, under 37 CFR 1.137(b), which is being treated as a petition to withdraw the holding of abandonment under 37 CFR 1.181.

The petition is **GRANTED**.

A Restriction Requirement was mailed to applicant on March 23, 2004, which set a one month shortened statutory period within which to submit a reply. Since, allegedly, no reply was received, the application became abandoned on April 24, 2004.

Petitioner asserts that a reply was, in fact, submitted to the Office by facsimile transmission on April 23, 2004. Petitioner has provided a copy of a receipt showing that the reply was transmitted to and received in the Office on April 23, 2004. In view of the timely filing of the reply, the application was improperly held abandoned. The abandonment of the application is hereby withdrawn.

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

The application file is being referred to Technology Center 3600.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Jeffer, Mangels, Butler & Marmaro, LLP
Seventh Floor
1900 Avenue of the Stars
Los Angeles, CA 90067

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MAR 0 4 2008

In re Application of	:	
Tiffany Boxer et al.	:	
Application No. 10/365,275	:	DECISION ON PETITION
Filed: February 11, 2003	:	
Attorney Docket No. 57210-5019	:	

This is a decision on the petition under 37 CFR 1.137(b), filed, January 8, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the Notice Allowability, mailed December 11, 2006. Accordingly, the date of abandonment of this application is March 13, 2007. A Notice of Abandonment was mailed on November 2, 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 substitute Oath and Declaration, (2) the petition fee of $770.00, and (3) a proper statement of unintentional delay.

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

This application is being referred to the Office of Data Management for appropriate processing in accordance with this decision on petition.

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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STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

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OCT 13 2009

OFFICE OF PETITIONS

In re Application of	:	
Mark L. Buer	:	
Application No. 10/365,305	:	DECISION GRANTING PETITION
Filed: February 12, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 2875.0180001	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 8, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on September 4, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries regarding this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 2431 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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PROSKAUER ROSE LLP
One International Place
Boston, MA 02110

Mail Date: 04/20/2010

Applicant	: Justin Data	: DECISION ON REQUEST FOR
Patent Number	: 7590579	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/365,323	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/11/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1603** 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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1875 EYE STREET, N.W.
SUITE 1100
WASHINGTON DC 20006

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JAN 23 2009

OFFICE OF PETITIONS

In re Application of	:	
Albuquerque et al.	:	
Application No. 10/365,353	:	DECISION ON PETITION
Filed: February 11, 2003	:	
Attorney Docket No. 27592-01094-US1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 26, 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 Restriction Requirement mailed February 8, 2008, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were timely obtained. Accordingly, the application became abandoned on March 9, 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 response to the Restriction Requirement, (2) the petition fee of $1,540.00 and (3) a proper statement of unintentional delay.

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

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

This application is being referred to Technology Center AU 2419 for appropriate action by the Examiner in the normal course of business on the reply received.

/Liana Walsh/
Liana Walsh
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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Paper No. None

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

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APR 26 2006

OFFICE OF PETITIONS

In re Application of :
Daniel V. Zilavy :
Application No. 10/365,364 : DECISION ON PETITION UNDER
Filed: February 12, 2003 : 37 C.F.R. §1.181(A)
Attorney Docket Number: :
100111213-1 :
Title: METHOD FOR PRIORITY- :
ENCODING INTERRUPTS AND :
VECTORING TO INTERRUPT CODE :

This is a decision on the petition under 37 CFR §1.181(a), filed February 1, 2006, to withdraw the holding of abandonment.

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 June 28, 2005, which set a shortened statutory period for reply of three (3) months. No response was received, and no extensions of time under the provisions of 37 CFR §1.136(a) were obtained. Accordingly, the above-identified application became abandoned on September 29, 2005. A notice of abandonment was mailed on January 25, 2006.

With the present petition, Petitioner has asserted that a reply was timely submitted on August 22, 2005.

RELEVANT PORTION OF THE C.F.R.

37 CFR §1.10(e) sets forth, *in toto*:

> (e) Any person mailing correspondence addressed as set out in § 1.1(a) to the Office with sufficient postage utilizing the "Express Mail Post Office to Addressee" service of the USPS but not received by the Office, may petition the Director to consider

such correspondence filed in the Office on the USPS deposit date, provided that:
(1) The petition is filed promptly after the person becomes aware that the Office has no evidence of receipt of the correspondence;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail";

(3) The petition includes a copy of the originally deposited paper(s) or fee(s) that constitute the correspondence showing the number of the "Express Mail" mailing label thereon, a copy of any returned postcard receipt, a copy of the "Express Mail" mailing label showing the "date-in," a copy of any other official notation by the USPS relied upon to show the date of deposit, and, if the requested filing date is a date other than the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS, a showing pursuant to paragraph (d)(3) of this section that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day; and

(4) The petition includes a statement which establishes, to the satisfaction of the Director, the original deposit of the correspondence and that the copies of the correspondence, the copy of the "Express Mail" mailing label, the copy of any returned postcard receipt, and any official notation entered by the USPS are true copies of the originally mailed correspondence, original "Express Mail" mailing label, returned postcard receipt, and official notation entered by the USPS.

ANALYSIS

Petitioner has asserted that on August 22, 2005, a response to the Office action was timely submitted. Petitioner has submitted a copy of this response, as well as a copy of express mail label number EV413242182US. It is noted that this express mail label number is listed on the response. The label is blank, but Petitioner has further included a copy of a printout of the tracking results from the USPS website, and it is clear that the mailing which is associated with this express mail label number was received in the Office on August 23, 2005. As such, Petitioner has met the requirements of 37 CFR §1.10(e), reproduced above.

Therefore, Petitioner has established that an after-final amendment was timely transmitted to the Office. However, the after-final amendment cannot be accepted as a proper response to the final Office action, for it fails to *prima facie* place the application in condition for allowance. This amendment was considered by the Examiner, but has not been deemed to place the application in condition for allowance. A copy of the Examiner's Advisory Action has been enclosed.

CONCLUSION

The petition must be **DISMISED**.

Any reply must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition Under 37 C.F.R. §1.181." This is not a final agency action within the meaning of 5 U.S.C 704. The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[1], hand-delivery[2], or facsimile[3].

Alternatively, Petitioner may wish to consider filing a petition under 37 CFR §§1.137(a) or (b).

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

Encl. Examiner's Advisory Action

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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. None

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

COPY MAILED

JUL 05 2006

OFFICE OF PETITIONS

In re Application of :
Daniel V. Zilavy :
Application No. 10/365,364 :
Filed: February 12, 2003 :
Attorney Docket Number: :
100111213-1 :
Title: METHOD FOR PRIORITY-ENCODING INTERRUPTS AND VECTORING TO INTERRUPT CODE :

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

This is a decision on the petition, pursuant to 37 C.F.R. §1.137(b)[1], to revive the above-identified application, filed on May 26, 2006.

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R. §1.113 in a timely manner to the final Office action mailed June 28, 2005, which set a shortened statutory period for reply of three (3) months. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were obtained. Accordingly, the above-identified application became abandoned on September 29, 2005. A notice of abandonment was mailed on January 25, 2006.

1 A grantable petition pursuant to 37 C.F.R. 1.137(b) must be accompanied by:
(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

A petition was filed under 37 C.F.R. §1.181(a) on February 1, 2006. This petition was dismissed via the mailing of a decision on April 26, 2006.

With the present petition, Petitioner has submitted a notice of appeal along with the associated fee, the petition fee, and the proper statement of unintentional delay. A terminal disclaimer is not required.

The petition 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 notice of appeal can be processed.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

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

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ALEXANDRIA, VA 22313-1450
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Paper No. 4

HEWLETT-PACKARD COMPANY
INTELLECTUAL PROPERTY
ADMINISTRATION
PO BOX 272400
FORT COLLINS, CO 80527-2400

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MAY 12 2003

OFFICE OF PETITIONS

In re Application of :
Andersen et al. :
Application No. 10/365,377 : ON PETITION
Filed: February 12, 2003 :
Attorney Docket No. 200206138-1 :

This decision concerns the April 29, 2003 petition under 37 CFR 1.10(d).

The petition is **GRANTED**.

Petitioners request a filing date of February 12, 2003 rather than the presently accorded filing date of February 13, 2003, on the basis that the application was deposited on February 12, 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 "EU493073851US." The same number also appears on the application transmittal that itemizes the application papers being deposited. Although the mailing label does not include a USPS "date-in," the Office agrees with Petitioners that, according to the information contained in the USPS official website (Track & Confirm), the package deposited with this mailing label was accepted by the USPS on February 12, 2003 at 11:41am. 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 February 12, 2003, and for issuance of a corrected filing receipt reflecting this filing date. Upon completion of the pre-examination process, 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

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JUL 30 2008

In re Application of :
KUMAGAI et al. :
Application No. 10/365,440 : DECISION ON PETITION
Filed: 02/13/2003 :
Attorney Docket No. 234014US2 :

This is a decision on the petition under 37 CFR 1.181 (no fee), filed May 27, 2008, requesting withdrawal of the holding of abandonment in the above-identified application.

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

On January 5, 2007, the Office mailed a final Office action, which set a three-month shortened statutory period for reply. On Monday, May 7, 2007, applicants filed a notice of appeal and a request for an extension of time for response within the first month, as well as paid the necessary fees. The filing of the notice of appeal set a two-month extendable period from May 7, 2007 (the date of receipt of the notice of appeal), for applicants to submit an appeal brief (i.e. Monday, July 9, 2007, plus an additional five months extension of time). On Monday, July 9, 2007, applicants filed a timely appeal brief. Nevertheless, on October 19, 2007, the Office mailed a Notice of Non-Compliant Appeal Brief, setting an extendable period of one month or thirty days, whichever was longer, from the mailing date of the Notification to reply. The Notification stated that the "Appeal brief as filed is for an abandoned application." On May 16, 2008, the Office mailed a Notice of Abandonment, stating that the application became abandoned because of "Applicant's failure to timely file a proper reply to the Office letter mailed on 19 October 2007."

In the present petition, applicants requests that the holding of abandonment be withdrawn due to the fact that the e-notification containing the Notification of Non-Compliant Appeal Brief was never sent.

Initially, the Office notes there is nothing in the record to indicate that the application was abandoned by law at the time the Examiner issued the Notification of Non-Compliant Appeal Brief. A review of the record reveals that applicants timely responded to the final Office action, as well as timely submitted the appeal brief.

As to the e-notification containing the Notification of Non-Compliant Appeal Brief, the Office finds that applicants' assertion is correct. Upon further review, it appears that there was an irregularity in the email notification of the Notification of Non-Compliant Appeal Brief of October 19, 2007. Therefore, it is concluded that applicants did not receive timely and proper notification of the outstanding Office action. Accordingly, the holding of abandonment is withdrawn and the application is restored to pending status.

The petition under 37 CFR 1.181 is **granted**. The Notice of Abandonment was mailed in error and is hereby withdrawn.

This application is being referred to the Technology Center AU 3732 for further action consistent with this decision.

Inquiries regarding this decision may be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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MAIER & NEUSTADT PC
1940 DUKE STREET
ALEXANDRIA, VA 22314

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OCT 0 7 2004

OFFICE OF PETITIONS

In re Application of :
Yoshikazu Ohno et al :
Application No. 10/365,443 : DECISION GRANTING PETITION
Filed: February 13, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 234000US90X :

This is a decision on the petition, filed October 6, 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 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 the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 1742 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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FEB 2 2 2005
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OBLON SPIVAK McCLELLAND
MAIER & NEUSTADT PC
1940 DUKE STREET
ALEXANDRIA, VA 22314

RECEIVED: 10/20/04
OBLON, SPIVAK, McCLELLAND
MAIER & NEUSTADT, P.C.
DOCKETING DEPT.
Initials/Date Docketed: 10/20/04
Type of Resp(s):
Due Date(s):

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OCT 0 7 2004

OFFICE OF PETITIONS

In re Application of :
Yoshikazu Ohno et al :
Application No. 10/365,443 : DECISION GRANTING PETITION
Filed: February 13, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 234000US90X :

This is a decision on the petition, filed October 6, 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 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 the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 1742 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

COPY

[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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Guy Yonay
EITAN, PEARL, LATZER &
COHEN ZEDEK, LLP
10 Rockefeller Plaza, Suite 1001
New York, NY 10020

MAIL

SEP 0 9 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of:
Amir WEINBERG, et al.
Application No. 10/365,494
Filed: February 13, 2003
For: COOPERATIVE SOFTWARE
APPLICATION ARCHITECTURE

DECISION ON PETITION UNDER 37 C.F.R. § 1.181 TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the petition filed December 28, 2004 under 37 CFR § 1.181(a) to withdraw the holding of abandonment of the above-identified application.

The petition is **GRATNED**.

This application was held abandoned for failure to timely pay the required issue fee and publication fee within the statutory period of three months from the mailing date of the Notice of Allowance. A Notice of Abandonment was mailed on December 20, 2004.

In support of the petition, petitioner provides a copy of the post card listing Issue Fee Transmittal Sheet and a copy of the Fee(s) Transmittal - Part B. The Return Acknowledgment Postcard had a USPTO stamp indicating receipt at the USPTO on November 8, 2004.

The original Fee Transmittal sheet, acknowledged as having been received in the USPTO on November 8, 2004, is not of record. However, M.P.E.P. § 503 states that "A post card receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO."

In reviewing the petition and the attached copies of the post card and the Fee(s) Transmittal Sheet, it is noted that papers were timely filed, but with an incorrect application serial number 10/365,594. The correct application serial number should be --10/365,494 --.

Under current Office procedure, a response that has an incorrect application number is handled in accordance with MPEP § 508.03. If a paper having an incorrect application number contains sufficient information to identify the correct application and was timely filed, the holding of abandonment will be withdrawn. In reviewing the papers submitted, it is concluded that the information contained thereon, includes name of the inventor, filing date of the application, title of the invention and the name of an examiner in the TC thereon which is deemed sufficient to associate the papers with the instant file.

For the above stated reasons, the petition is **GRANTED**. The Notice of Abandonment is hereby withdrawn.

The issue fee and publication fee paid on November 8, 2004 has been transferred to the instant application.

Any inquiry concerning this decision should be directed to Vincent N. Trans whose telephone number is (571) 272-3613.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/7/09

TO SPE OF : ART UNIT 2611

SUBJECT : Request for Certificate of Correction for Appl. No10/365,498/.: No.: 7,319,718---

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

Should the change Be made?

RoChaun Johnson
Certificates of Correction Branch
703 756-1572

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: _____

_____

_____

_____

_____

/Chieh M. Fan/ — **SPE**

2611 — **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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APR 15 2005

Technology Center 2100

MATTINGLY, STANGER, MALUR & BRUNDIDGE P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA VA 22314

In re Application of: Suzuki et al.
Application No. 10/365,517
Filed: February 13, 2003
For: METHOD AND SYSTEM FOR DISPLAYING THE CONFIGURATION OF STORAGE NETWORK

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

This is a response to the petition filed February 03, 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 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.

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

4/8/05

JC

UNITED STATES 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

FRANCOIS MARTINEUA
LESPERANCE & MARTINEAU
1440 OUEST, RUE STE CATRHERINE
BUREAU 700
MONTREAL (QUEBEC)
H3G 1R8 CANADA

COPY MAILED
AUG 2 0 2003
OFFICE OF PETITIONS

In re Application of :
Jacques et al. :
Application No. 10/365,545 :
Filed: January 31, 2003 :
Attorney Docket No. :
3019-1A

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

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

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

This file is being forwarded to Technology Center AU 3635 for processing in due course.

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

Derek L. Woods
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : April 08, 2008

TO SPE OF : ART UNIT 2624

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/365551 Patent No.: 7266254 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

[redacted]

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: _____

BRIAN WERNER
SUPERVISORY PATENT EXAMINER

2624
Art Unit

Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MICHAEL BEST & FRIEDRICH
100 EAST WISCONSIN AVENUE
MILWAUKEE, WI 53202

COPY MAILED

OCT 3 1 2003

OFFICE OF PETITIONS

In re Application of :
William M. Kenney et al :
Application No. 10/365,581 : DECISION GRANTING STATUS
Filed: February 12, 2003 : UNDER 37 CFR 1.47(A)
For: DIGITAL ASSISTANT FOR USE IN A :
COMMERCIAL ENVIRONMENT

This is in response to the petition under 37 CFR 1.47(a), filed September 29, 2003.

The petition is granted.

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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JAN 05 2004
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086399-9022

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ALEXANDRIA, VA 22313-1450
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Michael, Best & Friedrich LLP
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MILWAUKEE, WI

Paper No. 7

MICHAEL BEST & FRIEDRICH
100 EAST WISCONSIN AVENUE
MILWAUKEE, WI 53202

TMK

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OCT 31 2003
OFFICE OF PETITIONS

In re Application of
William M. Kenney et al
Application No. 10/365,581
Filed: February 12, 2003
For: DIGITAL ASSISTANT FOR USE IN A COMMERCIAL ENVIRONMENT

DECISION GRANTING STATUS UNDER 37 CFR 1.47(A)

This is in response to the petition under 37 CFR 1.47(a), filed September 29, 2003.

The petition is granted.

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

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

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

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

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

CG

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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OIPE
JAN 05 2004
PATENT & TRADEMARK OFFICE
JC102

JESSICA CHRISTINE DOWNS
1936 WEST THOMAS
CHICAGO, IL 60622

COPY MAILED

OCT 31 2003

OFFICE OF PETITIONS

In re Application of
Kenney; Downs; and Stone
Application No. 10/365,581
Filed: February 12, 2003
For: DIGITAL ASSISTANT FOR USE IN A COMMERCIAL ENVIRONMENT

Dear Ms. Downs:

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:
MICHAEL BEST & FRIEDRICH
100 EAST WISCONSIN AVENUE
MILWAUKEE, WI 53202

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

LESLIE C. HODGES
GENERAL MOTORS CORPORATION
LEGAL STAFF, MAIL CODE 482-C23-B21
P.O. BOX 300
DETROIT, MI 48265-3000

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OFFICE OF PETITIONS

In re Application of :
Muchmore, et al :
Application No. 10/365,582 : ON PETITION
Filed: February 12, 2003 :
Attorney Docket No. GP-301781 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 22, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed March 27, 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 28, 2003. A Notice of Abandonment was mailed on February 3, 2004.

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

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

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

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. 10

SAMUELS, GAUTHIER, & STEVENS, LLP
SUITE 3300
225 FRANKLIN STREET
BOSTON, MA 02110

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JUN 2 4 2004

OFFICE OF PETITIONS

In re Application of :
T. Michael Shore, et. al. :
Application No. 10/365,589 : ON PETITION
Filed: February 12, 2003 :
Attorney Docket No. D-1090 :

This is a decision on the petition under 37 CFR 1.137(b), filed June 15, 2004, to revive the above-identified application.

The petition is **GRANTED**.

A review of the record discloses that on May 29, 2003, a Notice to File Corrected Application Papers (Notice) was mailed, setting a two (2) month period for reply. The Notice required replacement drawings in compliance with 37 CFR 1.84 and 37 CFR 1.121. Since no response was filed, the application became abandoned after midnight July 29, 2003. A Notice of Abandonment was mailed on June 8, 2004.

The application is being returned to the Office of Initial Patent Examination (OIPE) for further review of the four sheets of drawings provided on June 15, 2004.

Telephone inquires related to this decision should be directed to the undersigned at (703) 305-9220. Telephone inquiries related to OIPE processing should be directed to their hotline at (703) 308-1202.

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

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

STRAUB & POKOTYLO
620 TINTON AVENUE
BLDG. B, 2ND FLOOR
TINTON FALLS, NJ 07724

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OFFICE OF PETITIONS

In re Application of :
Kompella et al. :
Application No. 10/365,598 :
Filed: February 12, 2003 :
Attorney Docket No. Juniper-18 (JNP-0206) :

DISMISSAL OF PETITION
UNDER 37 CFR 1.78(a)(3)
AND 37 CFR 1.78(a)(6)

This is a decision on the petition under 37 CFR 1.78(a)(3) and 37 CFR 1.78(a)(6), filed January 15, 2004, to accept unintentionally delayed claims for the benefit of the filing dates of the prior applications set forth in the concurrently filed amendment.

The petition is **dismissed**.

When an application is filed on or after November 29, 2000, benefit claims under 35 U.S.C. 119(e), 120, 121 and 365(c) must be made during the pendency of the application and within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior application. For the instant application, the above period of time ended on June 12, 2003. The priority claims at issue were not made by this date. However, petitioner has submitted a petition under 37 CFR 1.78(a)(3) and 1.78(a)(6).

37 CFR 1.78(a)(3) and 37 CFR 1.78(a)(6) allow for the filing of late priority claims if certain requirements are satisfied.

The petition under 37 CFR 1.78(a)(3) and 1.78(a)(6) must be accompanied by:
(1) the reference required by 35 USC 120 and 119(e) and 37 CFR 1.78 to the prior-filed applications, unless previously submitted;
(2) the surcharge set forth in 37 CFR 1.17(t); and
(3) a statement that the entire delay between the date the claims were due under 37 CFR 1.78 and the date the claims were filed was unintentional. The Commissioner may require additional information if there is a question whether the delay was unintentional.

Petitioner has failed to satisfy (1) above. Specifically, a *proper* amendment adding the priority claims has not been filed. Rule 78 may not be used to incorporate by reference material which was not previously incorporated by reference. In this case, petitioner seeks to incorporate by reference two applications which were not previously incorporated by reference.

The petition cannot be granted until a proper amendment is filed. Accordingly, before the petition under 37 CFR 1.78(a)(3) can be granted, a substitute amendment deleting the incorporation by reference statement, along with a renewed petition under 37 CFR 1.78(a)(3), is required.

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

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

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

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

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 Pearson
Director
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

STRAUB & POKOTYLO
620 TINTON AVENUE
BLDG. B, 2ND FLOOR
TINTON FALLS, NJ 07724

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JAN 0 5 2005

OFFICE OF PETITIONS

In re Application of :
Kompella et al. : GRANT OF PETITION
Application No. 10/365,598 : UNDER 37 CFR 1.78(a)(3)
Filed: February 12, 2003 : AND 37 CFR 1.78(a)(6)
Attorney Docket No. Juniper-18 (JNP-0206) :

This is a decision on the petition under 37 CFR 1.78(a)(3) and 37 CFR 1.78(a)(6), filed May 21, 2004, to accept unintentionally delayed claims for the benefit of the filing dates of the prior applications set forth in the concurrently filed amendment.

The petition is **granted**.

When an application is filed on or after November 29, 2000, benefit claims under 35 U.S.C. 119(e), 120, 121 and 365(c) must be made during the pendency of the application and within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior application. For the instant application, the above period of time ended on June 12, 2003. The priority claims at issue were not made by this date. However, petitioner has submitted a petition under 37 CFR 1.78(a)(3) and 1.78(a)(6).

37 CFR 1.78(a)(3) and 37 CFR 1.78(a)(6) allow for the filing of late priority claims if certain requirements are satisfied.

The petition under 37 CFR 1.78(a)(3) and 1.78(a)(6) must be accompanied by:
(1) the reference required by 35 USC 120 and 119(e) and 37 CFR 1.78 to the prior-filed applications, unless previously submitted;
(2) the surcharge set forth in 37 CFR 1.17(t); and
(3) a statement that the entire delay between the date the claims were due under 37 CFR 1.78 and the date the claims were filed was unintentional. The Commissioner may require additional information if there is a question whether the delay was unintentional.

Petitioner has satisfied the above requirements for relief under 37 CFR 1.78(a)(3) and 1.78(a)(6).

The granting of this petition is not a determination that petitioner is actually entitled to the benefit of the filing date of the prior-filed applications, but is only a determination that the Office will allow petitioner to file untimely claims for priority. The examiner will, in due course, consider any priority claims and determine the extent to which the application is entitled to an earlier filing date.

A corrected Filing Receipt, which includes the priority claims accompanies this decision on petition.

This application is being forwarded to Technology Center Art Unit 2666 for appropriate action on the amendment submitted January 15, 2004, including consideration by the examiner of the claims for priority and of whether the amendment complies with the

requirements of 37 CFR 1.121, and in particular the prohibition against the introduction of new matter (37 CFR 1.121(f)) and the requirements under MPEP 608.01(p) relating to incorporation by reference. The examiner should consider the priority claims and determine the extent to which the application is entitled to an earlier filing date based on the prior-filed applications.

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

Charles Pearson
Director
Office of Petitions

Attached: Corrected Filing Receipt

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OFFICE OF PETITIONS

HUFFMAN LAW GROUP
1832 N. CASCADE AVE.
COLORADO SPRINGS CO 80907-7449

In re Application of :
Thomas A. Crispin :
Application No. 10/365,600 : ON PETITION
Filed: February 11, 2003 :
Attorney Docket No. CNTR.2214 :

This is a decision on the petition, filed May 31, 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 23, 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 2193 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions

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

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United States Patent and Trademark Office
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HUFFMAN LAW GROUP, P.C.
1900 MESA AVE.
COLORADO SPRINGS, CO 80906

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OFFICE OF PETITIONS

In re Application of	:	
HENRY, et al.	:	
Application No. 10/365,601	:	DECISION GRANTING PETITION
Filed: February 11, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. CNTR.2166	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed November 8, 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 August 22, 2006 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries regarding this decision should be directed to Patricia Volpe at 571-272-6825.

This application is being referred to Technology Center AU 2193 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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OFFICE OF PETITIONS

Foley & Lardner
Suite 500
3000 K Street NW
Washington DC 20007

In re Application of
Yamaguchi et al.
Application No. 10/365,618
Patent No. 7,036,933
Filed: 2/13/2003
Attorney Docket No. 059277-0112

: DECISION GRANTING LETTER

This decision is in response to Patentees's 'LETTER (UNDER GENERAL OBLIGATION OF CANDOR AND GOOD FAITH IN PRACTICE BEFORE OFFICE" filed on May 18, 2006 requesting that the USPTO review the PTA determination at the time of the issuance of the patent and adjust the calculation to a determination of 457 days. The Office thanks patentees for the good faith and candor in bringing this matter to the attention of the Office

Patentee's letter concerning PTA is **GRANTED-IN PART.** The Office will adjust the PTA calculation at the time of the mailing of the notice of allowance to reflect a determination of **456 days** of PTA. A copy of the adjusted PTA calculation is provided with this determination. In addition, the Office will *sua sponte* issue a certificate of correction.

Patentees are given THIRTY days to reply if applicants disagree with this decision. No extensions of time are available under 37 CFR 1.136.

Applicant asserts that the USPTO may have granted too much PTA at the time of the notice of allowance. Applicant requests review of the PTA determination. Applicants assert that the Office erred in granting too much PTA because the Office failed to include a reduction pursuant to 37 CFR 1.704(c)(10) for the submission of an IDS submission on 2/14/2006.[1]

A review of the record reflects that applicant is correct. The Office failed to reduce the PTA for the submission of the IDS February 14, 2006, a twenty-nine day delay pursuant to 37 CFR 1.704(c)(10).[2] The Office failed to enter the submission of the IDS into PALM and accordingly, applicants did not receive a reduction for PTA. Patentees were awarded 485 days under 37 CFR 1.702(a)(1). Accordingly, the correct amount of PTA at the time of the issuance of the patents is 485-29=456) 456 days.

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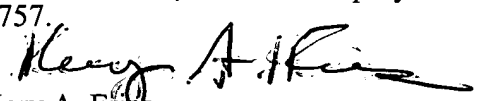
[1]The Office notes that patentees did not

[2]The reduction began on February 14, 2006 and ended on March 14, 2006, the date of the mailing of the corrected notice of allowability.

After the mailing of this decision, the Office will forward this application to the certificate of corrections branch for an issuance of the certificate of correction after expiration of thirty day reply period.

Because applicants were providing good faith and candor notice as to the amount of PTA, no fee is being assessed.

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



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

cc: Adjusted PAIR calculation
DRAFT certificate of correction

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 6

LOWE HAUPTMAN GILMAN & BERNER, LLP
1700 DIAGNOSTIC ROAD, SUITE 300
ALEXANDRIA, VA 22314

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MAR 2 4 2004

OFFICE OF PETITIONS

In re Application of :
Lamour, et al. : DECISION REFUSING STATUS
Application No. 10/365,622 : UNDER 37 CFR 1.47(a)
Filed: February 13, 2003 :
Atty. Dkt. No.: 4590-118 :
For: ANTENNA SYSTEM FOR LINKS :
BETWEEN MOBILE VEHICLES AND :
AIRBORNE DEVICES :

This decision is in response to the petition under 37 CFR 1.47(a), filed November 24, 2003.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed February 13, 2003 without an executed oath or declaration. Accordingly, a Notice to File Missing Parts of Nonprovisional Application was mailed May 2, 2003 requiring, *inter alia*, an executed oath or declaration and a surcharge.

The required surcharge of $130.00 has been charged to deposit account No. 07-1337 as authorized in the instant petition.

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

§§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

The instant petition lacks items (1) and (2) set forth above.

As to item (1), petitioner has failed to sufficiently establish that despite diligent effort, Maurice Elkael cannot be reached or located. Petitioner indicates that the application papers were sent to the non-signing inventor at the non-signing inventor's last known address and that the inventor has not returned a signed declaration nor indicated that he will not sign the declaration.

Where inability to reach or locate a non-signing inventor is alleged, petitioner is required to establish that diligent effort was made to locate the non-signing inventor and provide the non-signing inventor with a complete copy of the patent application (specification, including claims, drawings, and oath or declaration).

Any renewed petition must be supported by evidence that sufficiently establishes that despite diligent effort, the non-signing inventor cannot be located. A statement of facts should be submitted that fully describes the exact facts that are relied on to establish that a *diligent effort* was made to locate the non-signing inventor. The statement of facts must be signed, where at all possible, by a person having *firsthand knowledge* of the facts recited therein. Statements based on hearsay, will not normally be accepted. At the very least, a search of the internet, telephone directories, and international registries should be undertaken in regions where it is suspected the non-signing inventor may reside. Petitioner should reference and supply evidence of any such searches in a renewed petition. *See*, MPEP 409.03(d).

As to item (2), an acceptable oath or declaration has not been presented. The declaration presented with the instant petition is not acceptable as it contains alterations that have not been initialed. *See*, 37 CFR 1.52(c). Any renewed petition must be accompanied by a proper oath or declaration in full compliance with 37 CFR 1.63 and 37 CFR 1.64.

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

By mail: **Mail Stop Petition**
Commissioner for Patents

	P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(703) 872-9306
By hand delivery or courier 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 regarding this decision should be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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AUG 2 4 2004

OFFICE OF PETITIONS

LOWE HAUPTMAN GILMAN & BERNER, LLP
1700 DIAGNOSTIC ROAD, SUITE 300
ALEXANDRIA, VA 22314

In re Application of	
Lamour, et al.	DECISION REFUSING STATUS
Application No. 10/365,622	UNDER 37 CFR 1.47(a)
Filed: February 13, 2003	
Atty. Dkt. No.: 4590-118	
For: ANTENNA SYSTEM FOR LINKS BETWEEN MOBILE VEHICLES AND AIRBORNE DEVICES	

This decision is in response to the renewed petition under 37 CFR 1.47(a), filed July 21, 2004.

The petition is **GRANTED**.

Petitioner has shown that despite diligent effort, inventor Maurice Elkael cannot be reached or located to execute the declaration for the above-identified application.

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

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

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

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
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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MAURICE ELKAEL
26 RUE DE VERDUN
78110 LE VESINET
FRANCE

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AUG 2 4 2004
OFFICE OF PETITIONS

In re Application of	:	
Lamour, et al.	:	
Application No.: 10/365,622	:	LETTER
Filed: February 13, 2003	:	
Atty. Dkt. No.: 4590-118	:	
For: ANTENNA SYSTEM FOR LINKS	:	
BETWEEN MOBILE VEHICLES AND	:	
AIRBORNE DEVICES	:	

Dear Sir:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at (703) 305-0310. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Telephone inquiries regarding this matter should be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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DARBY & DARBY P.C.
P. O. BOX 5257
NEW YORK NY 10150-5257

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OFFICE OF PETITIONS

In re Reissue Application No. 10/365,627
Filed: February 12, 2003
Original Patent No 6,203,178
Issue Date: March 20, 2001
Original Application No. 09/343,486
Filed: June 30, 1999
Inventors: Hsieh et al.

: Decision on Petition

This application has been referred to this office due to the petition filed June 2, 2005, requesting that the Commissioner accept an unintentionally delayed priority claim.

The petition is dismissed as immaterial.

Petitioners correctly assert that as the original application for patent was filed before November 29, 2000, the provisions of the American Inventors Protection Act and its promulgating regulation at 37 CFR 1.78(a)(3) do not apply. See also MPEP 1402.

This reissue application is being referred to the Technology Center for further treatment of the application.

Telephone inquiries related to this decision should be directed to the undersigned at (703) 305-1820.

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

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P.O. Box 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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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Masaaki Hatano, et al. :
Application No. 10/365,630 :
Filed: February 13, 2003 :
Atty Docket No. 04329-3000 :

This is a decision on the petition, filed October 29, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 24, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2818 for further processing of the request for continued examination under 37 CFR 1.114 filed October 29, 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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BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

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OFFICE OF PETITIONS

In re Patent of Takahashi et al.
Patent No. 7,161,467
Issue Date: January 9, 2007
Application No. 10/365,663
Filing Date: February 12, 2003
Attorney Docket No. 9281-4503

Decision on Request for Reconsideration of Patent Term Adjustment

This is a decision in response to the "Petition for Reconsideration of Patent Term Adjustment" filed November 29, 2006, which in essence, requests that the Patent Term Adjustment for the above-identified patent be increased to 238 days.

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

The Determination of Patent Term Adjustment under 35 U.S.C. 154(b) mailed with the Notice of Allowance on August 30, 2006, stated the patent term adjustment to date is 39 days.

Patentees request correction of the patent term adjustment on the basis that the patent will issue at least 3 years and 199 days after the filing date of the application.

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). Therefore, the Office would normally hold in abeyance any decision on the request until after the actual patent date. Normally, the Office would give patentees two 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. However, in the instant case, the patent issued prior to the Office considering the merits of the instant request. Therefore, the Office will consider the merits of the request at this time.

The patent issued on January 9, 2007. The printed patent shows a patent term adjustment of 39 days. The patent term adjustment does not include any adjustment for the patent issuing more than three years after the filing date of the application.

The instant patent issued 3 years and 331 days after its filing date. However, 37 CFR 1.703(b)(1) and 35 U.S.C. 154(b)(1)(B) state that the period of adjustment under § 1.702(b) does not include the number of days from the date a request for continued examination is filed until

the patent is issued.[1] A RCE was filed on January 20, 2006. Since the RCE was filed less than three years after the application's filing date, no additional patent term adjustment accrued for the Office taking in excess of three years to issue the patent. The request for an increase in the patent term adjustment must be dismissed.

The record has been reconsidered, and it has been determined that the period of adjustment on the patent was correctly shown as thirty-nine (39) days.

Submission of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fee is required.

Any response to 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 NOT permitted. Any response should include a cover letter entitled "Renewed Request under 37 CFR 1.705(d)."

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

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

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

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

---

[1] *Changes to Implement Patent Term Adjustment Under Twenty-Year Patent Term; Final Rule*, 65 Fed. Reg. 56,366, 53,370-53,371 (September 18, 2000), 1239 Off. Gaz. Pat. Office (October 3, 2000):

> 35 U.S.C. 154(b)(1)(B) provides that an applicant may receive a term adjustment if the application is not issued within three years of the filing date of the application, excluding (among other things) any time consumed by continued examination requested under 35 U.S.C. 132(b). Once a request for continued examination under 35 U.S.C. 132(b) and § 1.114 is filed in an application, any further processing or examination of the application, including granting of a patent, is by virtue of the continued examination given to the application under 35 U.S.C. 132(b) and § 1.114.

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Laurence R. Letson
P.O. Box 910567
Lexington, KY 40591

COPY MAILED
JUL 19 2006
OFFICE OF PETITIONS

In re Application of :
Larry A. Dennis :
Application No. 10/365,670 :
Filed: February 12, 2003 : ON PETITION
Attorney Docket Number: :
LD9-03-001 :

This is a decision on the Petition to Revive Unintentionally Abandoned Application under 37 CFR 1.137(b), filed September 9, 2005. The delay in treating this petition is regretted.

The above-identified application became abandoned for failure to timely and properly reply to the final Office action, mailed December 28, 2004. The Office action set a three (3) month period for reply.

Applicant filed responses to the Office action on March 22, 2005, and May 5, 2005; however, the responses failed to place the application in condition for allowance. Applicant was so notified in an Advisory Actions mailed April 19, 2005 and June 7, 2005 respectively.

Applicant filed an Amendment responsive to the second Advisory Action on July 11, 2005; however, the period for reply, including any possible extensions of time, expired six months after the mailing of this Office action. And since no extensions of time were obtained, the application became abandoned March 29, 2005. A Notice of Abandonment was mailed August 18, 2005.

With the instant petition, Applicant has revived the application. The Amendment, filed July 11, 2005 places the application in condition for allowance.

The petition is hereby **granted**.

This application is being referred to Technology Center 3721 for processing of the Amendment in due course.

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

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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AUG 2 9 2003

OFFICE OF PETITIONS

B. Noel Kivlin
Meyertons, Hood, Kivlin, Kowert & Goetzel, P.C.
P.O. Box 398
Austin, TX 78767

In re Application of	:
Zenon Fortuna and Wayne J. Bowers	: DECISION GRANTING
Application No. 10/365,679	: PETITION UNDER
Filed: February 12, 2003	: 37 CFR 1.47
Attorney Docket No. 5681-57801	:
For: IDENTIFYING OCCURRENCES OF SELECTED EVENTS IN A SYSTEM	:

This is in response to the petition under 37 CFR 1.47(a) filed June 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

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

B. Noel Kivlin
Meyertons, Hood, Kivlin,
Kowert & Goetzel, P.C.
P.O. Box 398
Austin, TX 78767

In re Application of :
Bowers, et al. :
Application No. 10/365,680 : DECISION GRANTING STATUS
Filed: February 12, 2003 : UNDER 37 CFR 1.47(a)
Atty. Dkt. No.: 5681-47501 :
For: CAPTURING SYSTEM ERROR MESSAGES :

This decision is in response to the petition under 37 CFR 1.47(a), filed June 5, 2003.

The petition is **GRANTED**.

Petitioner has shown that inventor Wayne J. Bowers 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 regarding this decision should be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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WAYNE J. BOWERS
232 I STREET
FREMONT, CA 94536

COPY MAILED

SEP 02 2003

OFFICE OF PETITIONS

In re Application of
Bowers, et al.
Application No. 10/365,680
Filed: February 12, 2003
Atty. Dkt. No.: 5681-47501
For: CAPTURING SYSTEM ERROR MESSAGES

LETTER

Dear Sir:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at (703) 305-0310. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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Paper No. 4

B. NOEL KILVLIN
MEYERTONS, HOOD, KIVLIN, HOWERT & GOERTZEL, P.C.
P.O. BOX 398
AUSTIN TX 78767

COPY MAILED

SEP 0 3 2003

OFFICE OF PETITIONS

In re Application of	:	
Bowers and Fortuna	:	DECISION ACCORDING STATUS
Application No. 10/365,681	:	UNDER 37 CFR 1.47(a)
Filed: 12 February, 2003	:	
Atty Docket No. 5681-57601	:	
	:	

This is in response to the petition filed under 37 CFR 1.47(a) on 4 June, 2003 (certificate of mailing date 2 June, 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 presented a copy of the application papers. Specifically, petitioners have established, via the declaration of registered patent attorney B. Noel Kivlin, that a copy of the application was delivered to the non-signing inventor, Wayne J. Bowers. Joint inventor Bowers accepted the application papers but refused on 28 March, 2003, by telephone, to 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 Declaration. Notice of the filing of this application will also be published in the Official Gazette.

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

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

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Wayne J. Bowers
232 I Street
Fremont, CA 94536

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SEP 0 3 2003

OFFICE OF PETITIONS

In re Application of
Bowers et al.
Application No. 10/365,681
Filed: 12 February, 2003
For: ANALYZING SYSTEM ERROR MESSAGES

Dear Mr. Bowers:

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

B. NOEL KILVLIN
MEYERTONS, HOOD, KIVLIN, HOWERT & GOERTZEL, P.C.
P.O. BOX 398
AUSTIN TX 78767

OIPE JC154
JUN 04 2003
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#3

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

U.S. App. No.: 10/365,681

Filing Date: February 12, 2003

Inventors:
Wayne J. Bowers
Zenon Fortuna

Title: Analyzing System Error Messages

§

Examiner: Unknown
Group/Art Unit: 2133
Atty. Dkt. No: 5681-57601

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to Commissioner for Patents P.O. Box 1450, Alexandria, VA 22313-1450, on the date indicated below.

B. Noël Kivlin
Name of Registered Representative

Signature 6-2-03 Date

PETITION UNDER 37 CFR § 1.47

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

The United States Patent and Trademark Office is respectfully requested to accept the above-referenced patent application pursuant to 37 CFR § 1.47(a). Executed declarations are submitted herewith for all of the inventors except Wayne J. Bowers. As shown in the Statement of Facts submitted herewith, Mr. Bowers was presented with a copy of the above-referenced patent application and declaration; however, Mr. Bowers refused to sign the declaration due to mental illness. The remaining inventor submits the above-referenced patent application on behalf of himself and on behalf of Wayne J. Bowers.

The non-joining inventor's last known address is:

Wayne J. Bowers
232 I St.
Fremont, CA 94536

05/05/2003 AUONDAF1 00000057 501505 10365681
05 FC:1460 130.00 CH

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A fee authorization form for the fee set forth in 37 CFR § 1.17(h) is enclosed herewith.

Respectfully submitted,

B. Noël Kivlin
Reg. No. 33,929
Attorney for Applicants

Meyertons, Hood, Kivlin, Kowert & Goetzel, P.C.
P.O. Box 398
Austin, Texas 78767-0398
Ph: (512) 853-8840
Date: 6/2/03

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JUN 04 2003
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

U.S. App. No.: 10/365,681

Filing Date: February 12, 2003

Inventors:
Wayne J. Bowers
Zenon Fortuna

Title: Analyzing System Error Messages

§ Examiner: Unknown
§ Group/Art Unit: 2133
§ Atty. Dkt. No: 5681-57601

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to Commissioner for Patents P.O. Box 1450, Alexandria, VA 22313-1450, on the date indicated below.

B. Noël Kivlin
Name of Registered Representative

Signature 6/2/03
Date

STATEMENT OF FACTS

1. I, B. Noël Kivlin, hereby state the following facts of which I have personal knowledge. The following facts are stated in support of the Petition under 37 CFR § 1.47 submitted herewith in regard to the above-reference patent application.

2. On March 27, 2003, I delivered a copy of the above-referenced patent application and a Declaration form to co-inventor Wayne J. Bowers. Mr. Bowers accepted delivery of the application papers.

3. On or about March 28, 2003 by telephone, Mr. Bowers expressed to me his refusal to sign the Declaration for the above-referenced patent application. Mr. Bowers indicated that he is incapacitated due to mental illness.

4. I hereby declare that all statements made herein of my own knowledge are true and that all statements made herein on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

B. Noël Kivlin
Date: 6/2/03

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

U.S. App. No.: 10/365,681

Filing Date: February 12, 2003

Inventors:
Wayne J. Bowers
Zenon Fortuna

Title: Analyzing System Error Messages

§

Examiner: Unknown
Group/Art Unit: 2133
Atty. Dkt. No: 5681-57601

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to Commissioner for Patents P.O. Box 1450, Alexandria, VA 22313-1450, on the date indicated below.

B. Noël Kivlin
Name of Registered Representative

Signature 6/2/03
Date

FEE AUTHORIZATION

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

The Commissioner is hereby authorized to charge the following fee to Meyertons, Hood, Kivlin, Kowert & Goetzel, P.C. Deposit Account Number 50-1505/5681-57601/BNK:

Total Claims	33	- 20	= 13	x	$18.00 =	$234.00
Independent Claims	6	- 3	= 3	x	$84.00 =	$ 252.00
Surcharge - Late Oath					Fee:	$130.00
Petition Under 37 CFR 1.47					Fee:	$130.00
					Basic Fee:	$ 750.00
					Total:	$1,496.00

Attorney Docket No.: 5681-57601

The Commissioner is also authorized to charge any extension fee or other fees which may be necessary to the same account number.

Respectfully submitted,

B. Noël Kivlin
Reg. No. 33,929
Attorney for Applicants

Meyertons, Hood, Kivlin, Kowert & Goetzel, P.C.
P.O. Box 398
Austin, Texas 78767-0398
Ph: (512) 853-8840
Date: 6/2/03

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

U.S. App. No.: 10/365,681

Filing Date: February 12, 2003

Inventors:
Wayne J. Bowers
Zenon Fortuna

Title: Analyzing System Error Messages

§

Examiner: Unknown
Group/Art Unit: 2133
Atty. Dkt. No: 5681-57601

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to Commissioner for Patents P.O. Box 1450, Alexandria, VA 22313-1450, on the date indicated below.

B. Noël Kivlin
Name of Registered Representative

Signature

6-2-03
Date

RESPONSE TO NOTICE OF MISSING PARTS OF NONPROVISIONAL APPLICATION

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

Dear Sir:

Enclosed herewith is the following with regard to the above-identified application:

(a) An Assignment of the invention executed by the inventor(s).

(b) A combined Declaration and Power of Attorney executed by inventor Zenon Fortuna on behalf of himself and non-joining inventor Wayne J. Bowers.

(c) A Statement of Facts signed by B. Noël Kivlin.

(d) A Petition Under 37 C.F.R. § 1.47.

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(e) A Fee Authorization Form for $1,496.00 to cover the filing fees ($750.00), additional claims ($486.00), surcharge for late filing of oath or declaration ($130.00), and the Petition Under 37 CFR 1.47 fee ($130.00).

(f) A copy of Notice of Missing Parts.

(g) A return postcard to acknowledge receipt of these materials. Please stamp and return this postcard to the undersigned.

If any fees are inadvertently omitted or if any additional fees are required or have been overpaid, please appropriately charge or credit those fees to Meyertons, Hood, Kivlin, Kowert & Goetzel, P.C. Deposit Account Number 501505/5681-57601/BNK.

Respectfully submitted,

B. Noël Kivlin
Reg. No. 33,929
Attorney for Applicants

Meyertons, Hood, Kivlin, Kowert & Goetzel, P.C.
P.O. Box 398
Austin, Texas 78767-0398
Ph: (512) 853-8840
Date: 6-2-03

OIPE JC154 JUN 04 2003 PATENT & TRADEMARK OFFICE

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/365,681	02/12/2003	Wayne J. Bowers	5681-57601

CONFIRMATION NO. 6057

B. Noel Kivlin
Meyertons, Hood, Kivlin, Kowert & Goetzel, P.C.
P.O. Box 398
Austin, TX 78767

FORMALITIES LETTER

OC000000009747576

Date Mailed: 04/01/2003

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

Items Required To Avoid Abandonment:

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The statutory basic filing fee is missing.
  *Applicant must submit $ **750** to complete the basic filing fee for a non-small entity. If appropriate, applicant may make a written assertion of entitlement to small entity status and pay the small entity filing fee (37 CFR 1.27).*
- The oath or declaration is missing.
  A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date, is required.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(e) of $130 for a non-small entity, must be submitted with the missing items identified in this letter.

Items Required To Avoid Processing Delays:

The item(s) indicated below are also required and should be submitted with any reply to this notice to avoid further processing delays.

- Additional claim fees of **$486** as a non-small entity, including any required multiple dependent claim fee, are required. Applicant must submit the additional claim fees or cancel the additional claims for which fees are due.

06/05/2003 AVOHDAF1 00000057 501505 10365681
01 FC:1001 750.00 CH
02 FC:1051 130.00 CH
03 FC:1201 252.00 CH
04 FC:1202 234.00 CH

SUMMARY OF FEES DUE:

Total additional fee(s) required for this application is **$1366** for a Large Entity

- **$750** Statutory basic filing fee.

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- $130 Late oath or declaration Surcharge.
- Total additional claim fee(s) for this application is $486
  - $234 for 13 total claims over 20 .
  - $252 for 3 independent claims over 3 .

A copy of this notice MUST be returned with the reply.

Margaret A

Customer Service Center
Initial Patent Examination Division (703) 308-1202
PART 2 - COPY TO BE RETURNED WITH RESPONSE

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

B. NOEL KILVLIN
MEYERTONS, HOOD, KIVLIN, HOWERT & GOERTZEL, P.C.
P.O. BOX 398
AUSTIN TX 78767

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OFFICE OF PETITIONS

In re Application of	:
Bowers and Fortuna	: DECISION ACCORDING STATUS
Application No. 10/365,681	: UNDER 37 CFR 1.47(a)
Filed: 12 February, 2003	:
Atty Docket No. 5681-57601	:
	:

This is in response to the petition filed under 37 CFR 1.47(a) on 4 June, 2003 (certificate of mailing date 2 June, 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 presented a copy of the application papers. Specifically, petitioners have established, via the declaration of registered patent attorney B. Noel Kivlin, that a copy of the application was delivered to the non-signing inventor, Wayne J. Bowers. Joint inventor Bowers accepted the application papers but refused on 28 March, 2003, by telephone, to 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 Declaration. Notice of the filing of this application will also be published in the Official Gazette.

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

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 4

B. Noel Kivlin
Meyertons, Hood, Kivlin, Kowert & Goetzel, P.C.
P.O. Box 398
Austin, TX 78767

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AUG 25 2003

OFFICE OF PETITIONS

In re Application of :
Bowers and Rutz : DECISION GRANTING
Application No. 10/365,684 : PETITION UNDER
Filed: February 12, 2003 : 37 CFR 1.47
Attorney Docket No. 5681-57701 :
For: TOOL FOR DEFINING VERBS AND :
ADVERBS IN A FAULT INJECTION :
TEST CREATION ENVIRONMENT :

This is in response to the petition under 37 CFR 1.47(a) filed June 5, 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 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 (703) 306-5683.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

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Paper No. 5

Wayne J. Bowers
232 I. St.
Fremont, CA 94536

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AUG 2 5 2003

OFFICE OF PETITIONS

In re Application of :
Bowers and Rutz :
Application No. 10/365,684 :
Filed: February 12, 2003 : Letter
Attorney Docket No. 5681-57701 :
For: TOOL FOR DEFINING VERBS AND :
ADVERBS IN A FAULT INJECTION :
TEST CREATION ENVIRONMENT :

Dear Mr. Bowers:

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

cc: B. Noel Kivlin
Meyertons, Hood, Kivlin, Kowert & Goetzel, P.C.
P.O. Box 398
Austin, TX 78767

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Paper No. 8

B. Noel Kivlin
Meyertons, Hood, Kivlin,
Kowert & Goetzel, P.C.
P.O. Box 398
Austin, TX 78767

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NOV 2 6 2003

OFFICE OF PETITIONS

In re Application of	:	
Bowers et al.	:	
Application No. 10/365,685	:	DECISION REFUSING
Filed: February 12, 2003	:	STATUS UNDER § 1.47
Attorney Docket No. 5681-57501	:	

This is in response to the "Petition under 37 C.F.R. § 1.47," filed June 5, 2003 (resubmitted November 3, 2003 and supplemental statement of facts resubmitted November 13, 2003).

The petition is **DISMISSED AS INAPPROPRIATE**.

Rule 47 applicant is given **TWO MONTHS** from the mailing date of this decision to reply, correcting the below-noted deficiency. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiency 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 under § 1.136(a) are permitted.

BACKGROUND

The above-identified application was filed on December 20, 2002, without an executed oath or declaration, and missing the statutory basic filing fee. Wayne Bowers and Andrew Rutz were named as joint inventors. Accordingly, on April 4, 2003, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring the missing items, including a surcharge for late filing. This Notice set a period for reply of two months from the mailing date of the Notice, with extensions of time obtainable under § 1.136(a).

A previous "Response to Notice of Missing Parts of Nonprovisional Application," was filed on June 5, 2003. The response stated that a Petition under 37 C.F.R. § 1.47 was enclosed. However, no petition under § 1.47 was among the papers of record in the application. A letter notifying applicant of the incompleteness of the reply was mailed September 22, 2003.

In response, applicants submitted a copy of the petition under § 1.47, along with a date-stamped itemized postcard evidencing that the petition was originally received in the Office on June 5, 2003. Additionally, the response received June 5, 2003, included a certificate of mailing under § 1.8 dated June 3, 2003. As such, the response is considered timely filed.

CONSIDERATION UNDER § 1.47(a)

On June 5, 2003, rule 47 applicant responded with a declaration executed by inventor Rutz on behalf of himself and on behalf of non-signing inventor Bowers; the statutory basic filing fee; the late surcharge under § 1.16(e); and the instant petition (and petition fee). Rule 47 applicant maintains that status under 37 CFR 1.47 is proper because joint inventor Bowers has refused to join in the application for patent due to mental illness. On statement of facts by attorney Kivlin, it has been stated that the application papers were presented to inventor Bowers; however, inventor Bowers refused to sign the declaration, indicating that he is incapacitated due to illness.

35 U.S.C. 117 Death or incapacity of inventor.

> Legal representatives of deceased inventors and of those under legal incapacity may make application for patent upon compliance with the requirements and on the same terms and conditions applicable to the inventor.

Further, MPEP 409 provides that:

> If the inventor is dead, insane, or otherwise legally incapacitated, refuses to execute an application, or cannot be found, an application may be made by someone other than the inventor, as specified in 37 CFR 1.42-1.47, and 37 CFR 1.423, MPEP § 409.01 - § 409.03(j).

37 CFR 1.43 provides that:

> In case an inventor is insane or otherwise legally incapacitated, the legal representative (guardian, conservator, etc.) of such inventor may make the necessary oath or declaration, and apply for and obtain the patent. When an inventor dies prior to the filing of an application and prior to executing the oath or declaration required by 37 CFR 1.63 and no legal representative has been appointed, one must be appointed by a court of competent jurisdiction for the purpose of execution of the oath or declaration of the application.

MPEP 409.03(c)

> 37 CFR 1.47 should not be considered an alternative to 37 CFR 1.42 or 35 U.S.C. 117 since the language "cannot be found or reached after diligent effort" has no reasonable application to a deceased inventor. In re Application Papers Filed September 10, 1954, 108 USPQ 340 (Comm'r Pat. 1955). See 37 CFR 1.42 and MPEP § 409.01. However, 37 CFR 1.47 does apply where a known legal representative of a deceased inventor cannot be found or reached after diligent effort, or refuses to make application. In such cases, the last known address of the legal representative must be given (see MPEP § 409.03(e)).

MPEP 409.03(b)

> Furthermore, the fact that an inventor is hospitalized and/or is not conscious is not an acceptable reason for filing under 37 CFR 1.47. 37 CFR 1.43 may be available under these circumstances. See MPEP § 409.02. Such a petition under 37 CFR 1.47 will be dismissed as inappropriate.

Having considered the relevant statutes, rules and regulations, it is concluded that the instant petition must be dismissed as inappropriate. The facts set forth raise an issue as to inventor Bowers' legal capacity. If inventor Bowers is of a mental illness to a degree that he is legally insane, then the declaration should be signed by his legal representative on his behalf. See 35 U.S.C. 37 CFR 1.43. In such an instance, it can be concluded that inventor Bowers does not have the legal capacity to refuse to sign the declaration. Filing under § 1.47 based on his refusal is inappropriate. On the other hand, if the legal representative refuses to sign then the petition should be filed under § 1.47 based on the unavailability of the legal representative. Alternatively, if inventor Bowers is not legally insane, but is only temporarily under medical care for mental or other illness, then his condition is not an acceptable reason for filing under § 1.47. See MPEP 409.03(b).

Of course, petitioner may submit persuasive evidence showing that inventor Bowers' self-described mental illness is neither legally incapacitating nor temporarily medically incapacitating and that his refusal should be accepted as a knowing one. Then, acceptance of the declaration under § 1.47 executed by inventor Rutz on behalf of himself and on behalf of inventor Bowers would be appropriate.

CONCLUSION

Accordingly, at this time, the petition must be dismissed as inappropriate.

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

Telephone inquiries should be directed to the undersigned at (703) 305-0309.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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DEC 1 2003

Paper No. 8

B. Noel Kivlin
Meyertons, Hood, Kivlin,
Kowert & Goetzel, P.C.
P.O. Box 398
Austin, TX 78767

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NOV 2 6 2003

OFFICE OF PETITIONS

In re Application of :
Bowers et al. :
Application No. 10/365,685 : DECISION REFUSING
Filed: February 12, 2003 : STATUS UNDER § 1.47
Attorney Docket No. 5681-57501 :

This is in response to the "Petition under 37 C.F.R. § 1.47," filed June 5, 2003 (resubmitted November 3, 2003 and supplemental statement of facts resubmitted November 13, 2003).

The petition is **DISMISSED AS INAPPROPRIATE**.

Rule 47 applicant is given **TWO MONTHS** from the mailing date of this decision to reply, correcting the below-noted deficiency. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiency 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 under § 1.136(a) are permitted.

BACKGROUND

The above-identified application was filed on December 20, 2002, without an executed oath or declaration, and missing the statutory basic filing fee. Wayne Bowers and Andrew Rutz were named as joint inventors. Accordingly, on April 4, 2003, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring the missing items, including a surcharge for late filing. This Notice set a period for reply of two months from the mailing date of the Notice, with extensions of time obtainable under § 1.136(a).

A previous "Response to Notice of Missing Parts of Nonprovisional Application," was filed on June 5, 2003. The response stated that a Petition under 37 C.F.R. § 1.47 was enclosed. However, no petition under § 1.47 was among the papers of record in the application. A letter notifying applicant of the incompleteness of the reply was mailed September 22, 2003.

In response, applicants submitted a copy of the petition under § 1.47, along with a date-stamped itemized postcard evidencing that the petition was originally received in the Office on June 5, 2003. Additionally, the response received June 5, 2003, included a certificate of mailing under § 1.8 dated June 3, 2003. As such, the response is considered timely filed.

Response Due
4/26/04
12/2

CONSIDERATION UNDER § 1.47(a)

On June 5, 2003, rule 47 applicant responded with a declaration executed by inventor Rutz on behalf of himself and on behalf of non-signing inventor Bowers; the statutory basic filing fee; the late surcharge under § 1.16(e); and the instant petition (and petition fee). Rule 47 applicant maintains that status under 37 CFR 1.47 is proper because joint inventor Bowers has refused to join in the application for patent due to mental illness. On statement of facts by attorney Kivlin, it has been stated that the application papers were presented to inventor Bowers; however, inventor Bowers refused to sign the declaration, indicating that he is incapacitated due to illness.

35 U.S.C. 117 Death or incapacity of inventor.

> Legal representatives of deceased inventors and of those under legal incapacity may make application for patent upon compliance with the requirements and on the same terms and conditions applicable to the inventor.

Further, MPEP 409 provides that:

> If the inventor is dead, insane, or otherwise legally incapacitated, refuses to execute an application, or cannot be found, an application may be made by someone other than the inventor, as specified in 37 CFR 1.42-1.47, and 37 CFR 1.423, MPEP § 409.01 - § 409.03(j).

37 CFR 1.43 provides that:

> In case an inventor is insane or otherwise legally incapacitated, the legal representative (guardian, conservator, etc.) of such inventor may make the necessary oath or declaration, and apply for and obtain the patent. When an inventor dies prior to the filing of an application and prior to executing the oath or declaration required by 37 CFR 1.63 and no legal representative has been appointed, one must be appointed by a court of competent jurisdiction for the purpose of execution of the oath or declaration of the application.

MPEP 409.03(c)

> 37 CFR 1.47 should not be considered an alternative to 37 CFR 1.42 or 35 U.S.C. 117 since the language "cannot be found or reached after diligent effort" has no reasonable application to a deceased inventor. In re Application Papers Filed September 10, 1954, 108 USPQ 340 (Comm'r Pat. 1955). See 37 CFR 1.42 and MPEP § 409.01. However, 37 CFR 1.47 does apply where a known legal representative of a deceased inventor cannot be found or reached after diligent effort, or refuses to make application. In such cases, the last known address of the legal representative must be given (see MPEP § 409.03(e)).

MPEP 409.03(b)

> Furthermore, the fact that an inventor is hospitalized and/or is not conscious is not an acceptable reason for filing under 37 CFR 1.47. 37 CFR 1.43 may be available under these circumstances. See MPEP § 409.02. Such a petition under 37 CFR 1.47 will be dismissed as inappropriate.

Having considered the relevant statutes, rules and regulations, it is concluded that the instant petition must be dismissed as inappropriate. The facts set forth raise an issue as to inventor Bowers' legal capacity. If inventor Bowers is of a mental illness to a degree that he is legally insane, then the declaration should be signed by his legal representative on his behalf. See 35 U.S.C. 37 CFR 1.43. In such an instance, it can be concluded that inventor Bowers does not have the legal capacity to refuse to sign the declaration. Filing under § 1.47 based on his refusal is inappropriate. On the other hand, if the legal representative refuses to sign then the petition should be filed under § 1.47 based on the unavailability of the legal representative. Alternatively, if inventor Bowers is not legally insane, but is only temporarily under medical care for mental or other illness, then his condition is not an acceptable reason for filing under § 1.47. See MPEP 409.03(b).

Of course, petitioner may submit persuasive evidence showing that inventor Bowers' self-described mental illness is neither legally incapacitating nor temporarily medically incapacitating and that his refusal should be accepted as a knowing one. Then, acceptance of the declaration under § 1.47 executed by inventor Rutz on behalf of himself and on behalf of inventor Bowers would be appropriate.

CONCLUSION

Accordingly, at this time, the petition must be dismissed as inappropriate.

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

Telephone inquiries should be directed to the undersigned at (703) 305-0309.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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Paper No. 10

B. Noel Kivlin
Meyertons, Hood, Kivlin,
Kowert & Goetzel, P.C.
P.O. Box 398
Austin, TX 78767

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MAR 12 2004

OFFICE OF PETITIONS

In re Application of :
Bowers et al. :
Application No. 10/365,685 : DECISION ACCORDING
Filed: February 12, 2003 : STATUS UNDER § 1.47
Attorney Docket No. 5681-57501 :

This is in response to the "REQUEST FOR RECONSIDERATION OF PETITION UNDER 37 CFR § 1.47(a)," filed March 1, 2004.

The petition is **GRANTED**.

The above-identified application was filed on December 20, 2002, without an executed oath or declaration, and missing the statutory basic filing fee. Wayne Bowers and Andrew Rutz were named as joint inventors. In response to the "Notice to File Missing Parts of Nonprovisional Application" mailed April 4, 2003, on June 5, 2003, applicant filed the initial petition under § 1.47. On November 3, 2003, applicant resubmitted the petition with a showing that it was originally filed on June 5, 2003.

Rule 47 applicant maintained that status under 37 CFR 1.47 is proper because joint inventor Bowers had refused to join in the application for patent due to mental illness. The petition was dismissed as inappropriate as an issue as to inventor Bowers' legal capacity was raised. The question was raised whether the declaration should have been submitted under § 1.43 instead, or under § 1.47 based on unavailability of a legal representative. Alternatively, it was stated that petitioner could submit a persuasive evidence showing that inventor Bowers' self-described mental illness is neither legally incapacitating nor temporarily medically incapacitating and that his refusal should be accepted as a knowing one.

On instant renewed petition, by declaration of facts of patent attorney Kivlin, it was clarified that inventor Bowers is not neither under a legal incapacity nor legally insane.

Accordingly, submission of a declaration under § 1.47 executed by inventor Rutz on behalf of himself and on behalf of inventor Bowers is considered appropriate.

The declaration filed June 5, 2003, and the petition have been reviewed and now found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

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

The application is forwarded to Technology Center 2184 for examination.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0309.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW, CA 94041

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SEP 15 2006

OFFICE OF PETITIONS

In re Application of :
Ted M. Sichelman et al :
Application No. 10/365,704 : DECISION ON PETITION
Filed: February 11, 2003 : TO WITHDRAW
Attorney Docket No. 159624-0002 : 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 11, 2005.

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

A review of the file record indicates that the power of attorney to Amir H. Raubvogel, along with all of the other attorneys associated with customer no. 00758 has been revoked by the assignee of the patent application on April 4, 2006. 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.

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

Karen Creasy
Petitions Examiner
Office of Petitions

cc:
IRELL & MANELLA LLP
1800 AVENUE OF THE STARS
SUITE 900
LOS ANGELES, CA 90067

UNITED STATES PATENT AND TRADEMARK OFFICE

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HELLER EHRMAN LLP
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SAN DIEGO CA 92122

MAILED

JAN 29 2009

OFFICE OF PETITIONS

In re Application of

Ted M. Sichelman et al
Application No. 10/365,704
Filed: February 11, 2003
Attorney Docket No. 44251-0001

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 October 22, 2008.

The request is **NOT APPROVED**.

A review of the file record indicates that Richard Thill does not have power of attorney in this patent application nor is there any statement or evidence of record of employment in or otherwise being engaged in the proceedings in this patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

Additionally, no customer number or additional attorney names were provided as desiring to be withdrawn.

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

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

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

cc:

FOLEY & LARDNER LLP
11250 EL CAMINO REAL
SUITE 200
SAN DIEGO, CA 92130

PATENTBEST
4600 ADELINE ST., #101
EMERYVILLE, CA 94608

UNITED STATES PATENT AND TRADEMARK OFFICE

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CARLSON, GASKEY & OLDS, P.C.
400 WEST MAPLE ROAD
SUITE 350
BIRMINGHAM MI 48009

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MAR 1 3 2007

OFFICE OF PETITIONS

In re Application of :
Belmond, et al. :
Application No. 10/365,714 : ON PETITION
Filed: February 12, 2003 :
Attorney Docket No. 60130-1688 :
For: UNLOCKING SYSTEM FOR AUTOMOBILE VEHICLE DOORS AND THE LIKE

This is a decision on the petition under 37 CFR 1.181, filed December 14, 2006 (certificate of mailing date December 12, 2006), withdraw the holding of abandonment of the above-identified application and the petition under 37 CFR 1.47(a), filed December 14, 2006 (certificate of mailing date September 28, 2006, which will be treated as a petition under 37 CFR 1.183 requesting waiver of 37 CFR 1.67 and 1.63, which requires that a supplemental declaration be executed by all named inventors.[1]

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

The petition under 37 CFR 1.183 to waive 37 CFR 1.67 and 1.63 is **DISMISSED AS MOOT**.

This application was held abandoned for failure to respond in a timely and proper manner to the Notice of Allowance and Fee(s) Due, mailed June 28, 2006, which set forth a non-extendable three (3) month period for reply. The Office contended that this application became abandoned on September 29, 2006. A Notice of Abandonment was mailed on November 2, 2006.

[1] Once an application has received a fully executed oath or declaration and been placed on the files for examination, the provisions of 37 CFR 1.47 no longer apply. Rather, the remedy for treating a previously signing inventor's refusal to execute a supplemental oath or declaration is waiver of 37 CFR 1.67 and 1.63. See MPEP 603.

Petitioners assert a completed PTOL-85B with authorization to charge the issue fee and the publication fee, a petition to add inventors with authorization to charge the required processing fee, a statement by the added inventors, a statement by the assignee agreeing to the inventorship change, and a Rule 47(a) petition with authorization to charge the required petition fee were timely filed on certificate of mailing date September 28, 2006.

The official application file does not contain the aforementioned correspondence. However, the copy of the petition to add inventor, the Rule 47(a) petition, and the PTOL-85B submitted with the instant petition contains a proper certificate of mailing bearing a September 28, 2006 date of deposit.

Under 37 CFR 1.8(a)(1) correspondence is considered timely if: (1) the correspondence is mailed or transmitted prior to expiration of the set period for response by being properly addressed to the Patent and Trademark Office as set out in 37 CFR 1.1(a) and deposited with the U.S. Postal Service with sufficient postage as first class mail or transmitted to the Patent and Trademark Office in accordance with 37 CFR 1.6(d); and (2) the correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The person signing the certificate should have a reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated.

The correspondence bears a proper certificate of mailing, dated September 28, 2006, in compliance with the requirements of 37 CFR 1.8(a)(1) as set forth above. In addition, the person signing the certificate, Amy M. Spaulding, had reasonable basis to expect that the correspondence would be mailed on September 28, 2006. Ms. Spauliding has provided a statement attesting to the timely mailing of the September 28, 2006 correspondence.

The petition under 37 CFR 1.181 is **granted**, the holding of abandonment is withdrawn, and the November 2, 2006 Notice of Abandonment is **vacated**. No petition fee has been or will be charged in connection with this matter.

On December 14, 2006 (certificate of mailing date December 12, 2006), petitioners filed a declaration executed by Sylvian Chonavel, the inventor for whom the "Rule 47(a)" petition was filed. It is noted that the declaration contains non-dated and non-initialed alterations to Inventor Chonavel's information. Therefore, the examiner of record may request a clean copy of the declaration signed by Inventor Chonavel. However, in light of Inventor Chonavel's willingness to participate, as shown by the execution of the declaration, the petition under 37 CFR 1.183 to waive 37 CFR 1.67 and 1.63 is **dismissed as moot**. The $130.00 fee submitted with the petition will be credited to deposit account no. 50-1482.

After the mailing of this decision, the application file will be forwarded to Technology Center A.U. 2612 for a primary examiner to consider the petition under 37 CFR 1.48(a), filed on December 14, 2006 (certificate of mailing date September 28, 2006).

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

July 10, 2007

Patent No. : 7224259 B2
Ser. No. : 10/365714
Inventor(s) : Belmond, et al.
Issued : May 29, 2007
Title : **UNLOCKING SYSTEM FOR AUTOMOBILE VEHICLE DOORS AND THE LIKE**
Docket No. : 60130-1688

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 Rules 1.322 and 1.323.

A petition under C.F.R. 1.182 is required to correct errors in spelling or order of inventors names or addresses, since inventor's names or addresses are printed solely in accordance with the type-written names and address and in the order of the type- written names and address on the Declaration, and since the error was the result of applicant's failure to comply with the requirement that the complete and correct names and addresses in correct order be indicated on the Declaration of Oath, no correction is in order here under the provisions of Rules 1.323, unless a petition is granted.

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

However, a petition under 37 CFR 1.182 should be directed to the attention of the Assistant Commissioner for Patents using the following mailing address or FAX number.

By Mail: Commissioner of Patents and Trademarks
Box DAC
Washington, D.C. 20231

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

Further correspondence concerning this matter should be filed and directed to Decisions and Certificates of Correction Branch.

Elisha Evans
Cecelia Newman, Supervisor
Decisions & Certificates
of Correction Branch
703 308- 9390 EXT. 110

CARLSON, GASKEY & OLDS, P.C.
400 WEST MAPLE ROAD
SUITE 350
BIRMINGHAM MI 48009

CBN/eme

UNITED STATES 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

The Law Offices of
William W. Cochran, LLC
Suite 230
3555 Stanford Road
Fort Collins CO 80525

COPY MAILED

AUG 29 2003

OFFICE OF PETITIONS

In re Application of:
Craig D. Harrison and
James J. Graham
Application No. 10/365,718
Filed: February 11, 2003
Title of Invention:
LAND SOFTWARE TOOL

ON PETITION

This is in response to a petition under 37 CFR 1.47(a), filed May 16, 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 **dismissed**.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)", and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on February 11, 2003, without a fully executed oath or declaration. The Office mailed a Notice to File Missing Parts of Nonprovisional Application (hereinafter "Notice"), on March 21, 2003, requiring inter alia, a properly signed oath or declaration.

In response to the Notice, Petitioner files the instant wherein Petitioner avers that the nonsigning inventor refuses to join the application.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with

the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Applicant lacks item (1) as set forth above.

Applicant lacks items (1) set forth above.

As to item (1), where it is alleged that an applicant refuses to join an application, the applicant must establish that the nonsigning inventor was presented with the application for signature. The Manual of Patent Examining Procedure ("MPEP") states that

> A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney.

MPEP 409.03(d).

Accordingly, where it is alleged that an inventor refuses to join an application, the MPEP requires that a copy of the application is sent to the last known address of the nonsigning inventor(s) or their legal representative. See, MPEP 409.03(e).

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

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

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

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

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

Derek L. Woods
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

The Law Offices of
William W. Cochran, LLC
Suite 230
3555 Stanford Road
Fort Collins, CO 80525

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DEC 0 3 2003

OFFICE OF PETITIONS

In re Application of:	:	
Craig D. Harrison and	:	
James J. Graham	:	DECISION GRANTING
Application No.: 10/365,718	:	STATUS
Filed: February 11, 2003	:	UNDER 37 CFR 1.47(a)
Title of Invention:	:	
LAND SOFTWARE TOOL	:	

This is in response to a Request for Reconsideration of Petition under 37 CFR 1.47(a), filed October 7, 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, James J. Graham, 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 Declaration/Power of Attorney has been entered and made of record.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 6/5/08

Paper No.: —

TO SPE OF : ART UNIT 1626

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/365,719 Patent No: 7,186,737 B2

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

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within 7 days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within 7 days, to:

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

VIRGINIA TOLBERT
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

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

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

Comments: _____

Joseph K. McKane
JOSEPH K. MCKANE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

SPE

1626
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

John C. Hammar
The Boeing Company
PO Box 3707, MC 13-08
Seattle, WA 98124-2207

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NOV 2 6 2004

OFFICE OF PETITIONS

In re Application of :
Glen L. Rasmussen :
Application No. 10/365,724 : ON PETITION
Filed: February 11, 2003 :
Attorney Docket No. 97-027C :

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

The petition is **DISMISSED** because it lacks the required petition fee pursuant to 37 CFR 1.17(m). The petition is also unsigned. Applicant is given TWO MONTHS from the date of this communication to submit the $1,370 petition fee and a ratification of the unsigned 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 hand:
U.S. Patent and Trademark Office
220 20th Street S.
Customer Window, Mail Stop PETITION
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

The centralized facsimile number is **(703) 872-9306**.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3204.

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

JOHN C. HAMMAR
THE BOEING COMPANY
PO BOX 3707, MC 13-08
SEATTLE, WA 98124-2207

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MAR 22 2005

OFFICE OF PETITIONS

In re Application of
Glen L. Rasmussen, et al.
Application No. 10/365,724
Filed: February 11, 2003
Attorney Docket No. 97-027C

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b), filed by December 13, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely respond to a Notice to File Corrected Application Papers mailed May 13, 2003. The notice required substitute drawings in compliance with 37 CFR 1.84. A Notice of Abandonment was mailed on June 4, 2004. On September 29, 2004, substitute drawings were filed, along with a petition to revive the above-noted application. However, the petition was dismissed in a decision mailed November 26, 2004, since it was unsigned. On December 13, 2004, the present petition was filed. Petitioner explains that the substitute drawings are not resubmitted since the present petition ratifies the original filing.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Although the statement contained in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement will be construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

The application is being referred to the Office of Initial Patent Examination (OIPE) for further review of the drawings filed September 29, 2004.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

JUN 25 2003

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

#5

DAVID R. SALIWANCHIK
2421 N.W. 41ST STREET, SUITE A-1
GAINESVILLE, FL 32606

In re Application of :
Joseph C. Cauthen :
Serial No.: 10/365,730 :
Filed: February 12, 2003 :
For: Spinal Disc Annulus Reconstruction :
Method and Spinal Disc Annulus Stent:

DECISION ON PETITION

This is in response to applicants' petition filed May 15, 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, Washington, DC 20231, or by telephone at (703) 308-0873 or by facsimile transmission at (703) 308-3139.

John E. Kittle
Director
Technology Center 3700/2900

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

QUARLES & BRADY LLP
411 E. WISCONSIN AVENUE, SUITE 2040
MILWAUKEE, WI 53202-4497

Mail Date: 04/20/2010

Applicant	: Francis H.C. Tsao	: DECISION ON REQUEST FOR
Patent Number	: 7579156	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/365,738	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/12/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1494** 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

MICHAEL L. GOLDMAN
NIXON PEABODY LLP
CLINTON SQUARE
P.O. BOX 31051
ROCHESTER NY 14603

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APR 11 2007

OFFICE OF PETITIONS

In re Application of :
James Alfano et al :
Application No. 10/365,742 : ON PETITION
Filed: February 12, 2003 :
Attorney Docket No. :
19603/4112(CRFD-3017B) :

This is a decision on the petition under 37 CFR 1.182, filed November 2, 2006, to change the order of the names of the inventors.

The petition is **Granted**.

A corrected Filing Receipt with the desired order of the names of the inventors accompanies this decision on petition.

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

This matter is being referred to Patent Publication.

Karen Creasy
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

Philips Intellectual Property & Standards
P.O. Box 3001
Briarcliff Manor, NY 10510

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JAN 31 2006

OFFICE OF PETITIONS

In re Application of :
Hoogerbrugge et al. : DECISION ON PETITION
Application No. 10/365,780 : UNDER 37 CFR 1.137(b)
Filed: February 13, 2003 :
Attorney Docket No. PHN 17,202A :

This is a decision on the petition under 37 CFR 1.137(b), filed November 18, 2005, to revive the above-identified application.

This application became abandoned for failure to reply timely to the Notice of Non-Compliant Amendment mailed on June 17, 2005, which set an extendable period of one month or thirty days, which ever was longer, to reply. Accordingly, this application became abandoned on July 18, 2005.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Petitioner submitted the required reply, paid the petition fee, and made the proper statement of unintentional delay.

The petition is **granted.**

This matter is being referred to Technology Center Art Unit 2192.

Telephone inquiries regarding 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

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

Paper No. 10

CLIFFORD G. FRAYNE
136 DRUM POINT RD
SUITE 7A
BRICK NJ 08723

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SEP 28 2005

OFFICE OF PETITIONS

In re Application of :
Horacio Pineda :
Application No. 10/365,782 : ON PETITION
Filed: February 14, 2003 :
Attorney Docket No. 839-001 :

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement mailed May 20, 2004 which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on June 21, 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 amendment/election; (2) the petition fee of $750.00; and (3) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571)272-3213.

The application file is being forwarded to Technology Center 3700, Art Unit 3748 for consideration.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Thomas D. Stadsklev
Florida Foundation Seed Producers, Inc.
P.O. Box 309
Greenwood FL 32443

MAILED

JUN 19 2009

OFFICE OF PETITIONS

In re Application of :
Richard Henry :
Application No. 10/365,785 : ON PETITION
Filed: February 14, 2003 :
For: Aglaonema Plant Named 'Diamond Bay' :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 29, 2009, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The petition has **not** been reviewed on the merits because the petition has not been properly signed.

In this regard, petitioner's attention is directed to 37 CFR 1.33(b), which states.

> (b) Amendments and other papers. Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:
> (1) A registered patent attorney or patent agent of record appointed in compliance with § 1.32(b);
> (2) A registered patent attorney or patent agent not of record who acts in a representative capacity under the provisions of § 1.34;
> (3) An assignee as provided for under §3.71(b) of this chapter; or
> (4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

An unknown party has submitted the petition. To the extent petitioner represents the assignee a statement to that affect should be provided. It is further noted that the address provided on the petition differs from the correspondence of record.

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

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

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

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

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

Charlema Grant
Petitions Attorney
Office of Petitions

Cc: John C. Beutteenmuller
1022 McCarty Hall D
P.O. Box 110200
Gainesville, Florida 32611-0200

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Florida Foundation Seed Producers, Inc.
P.O. Box 110200
Gainesville, FL 32611-0200

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SEP 14 2009

OFFICE OF PETITIONS

In re Application of :
Richard Henry :
Application No. 10/365,785 : ON PETITION
Filed: February 14, 2003 :
For: Aglaonema Plant Named 'Diamond Bay' :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 9, 2009, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

This above-identified application became abandoned for failure to timely file a reply to a non-final Office action mailed December 6, 2006. The Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on March 7, 2007. A Notice of Abandonment was mailed on October 1, 2007.

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 over two-year delay 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 March 7, 2007. That party, in turn must explain what effort(s) was made to further reply to the outstanding Office action and, further, why no reply was filed. If no effort was made to further reply, then that party must explain why the delay in this application does not result from a deliberate course of action (or inaction). Statements are required from any and all 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. As the courts have since made clear, a protracted delay in seeking revival, as here, requires a petitioner's detailed explanation seeking to excuse the delay as opposed to USPTO acceptance of a general allegation of unintentional delay. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633, at 1637-8 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005) at *21-*23. Statements are required from any and all responsible person(s) having firsthand knowledge of the circumstances surrounding the protracted delay, after the abandonment date, in seeking revival.

As noted in MPEP 711.03(c)(II), subsection D, in instances in which such petition was not filed within 1 year of the date of abandonment of the application, applicants should include:

> (A) the date that the applicant first became aware of the abandonment of the application; and
> (B) a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant.

In either instance, applicant's failure to carry the burden of proof to establish that the "entire" delay was "unavoidable" or "unintentional" may lead to the denial of a petition under 37 CFR 1.137(b), regardless of the circumstances that originally resulted in the abandonment of the application. *See also* New York University v. Autodesk, 2007 U.S. DIST LEXIS, U.S.District

LEXIS 50832, *10 -*12 (S.D.N.Y. 2007)(protracted delay in seeking revival undercuts assertion of unintentional delay).

Accordingly, the petition cannot be granted.

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

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

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

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

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

Charlema Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DAVID GIGLIO, ESQ.
231 Elizabeth Street
Utica NY 13501

COPY MAILED

MAR 16 2004

OFFICE OF PETITIONS

In re Application of
Kehrli, et al.
Application No. 10/365,787
Filed: February 14, 2003
Attorney Docket No. N/A
FOR: WATER PROTECTIVE OVER GARMENT

DECISION DISMISSING PETITION

This is a decision on the petition under 37 CFR 1.137(a), filed February 12, 2004 (certificate of mailing date February 10, 2004), to revive the above-identified application.

The petition under 37 CFR 1.137(a) is DISMISSED.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Petition under 37 CFR 1.137(a)." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to timely reply to the Notice to File Corrected Application Papers, mailed March 26, 2003, which set an extendable period for reply of two (2) months to submit replacement drawings. Having received no replacement drawings, this application became abandoned on May 27, 2003. A Notice of Abandonment was mailed on February 3, 2004.

Petitioner alleges that due to a clerical error, the requirement listed in the March 26, 2003 Notice to File Corrected Application Papers was not docketed. Therefore, the delay in responding to the Notice was unavoidable.

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 does not satisfy requirement (3).

With respect to (3), the showing of record is inadequate to establish unavoidable delay within the meaning of 37 CFR 1.137(a). Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure of mail, telegraph, telefacsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

The Commissioner may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Commissioner to have been "unavoidable". 35 USC § 133. 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). Finally, a petition to revive an application as unavoidably abandoned cannot be granted where a 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).

As stated in the MPEP 711.03(c), a delay resulting from an 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 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;
(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.

Petitioner must supply a thorough explanation of the docketing and call-up system in use and must identify the type of records kept and the person responsible for the maintenance of the system. Petitioner must submit copies of mail ledgers, docket sheets, filewrappers and such other records as may exist which would substantiate an error in docketing. The Office would like to see

portions of the action calendar referenced in the petition where the docketing entry should have been entered. An adequate showing requires a statement by all persons with direct knowledge of why docket procedures failed, setting forth the facts as they know them. Petitioner has not submitted a statement from his secretary regarding the alleged docketing error.

In addition, petitioner has not supplied information regarding the amount and type of training provided to the secretary, the degree of supervision of his/her work, examples of other work functions carried out, and checks on the described work which were used to assure the proper execution of assigned tasks. The Office would like information pertaining to the reliability of the secretary. It must be established that reliance upon the secretary represented the exercise of due care on the part of the attorney.

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 hand:
Crystal Plaza 1 Lobby
2011 South Clark Place
Room 1B03
Arlington, VA 22202
ATTN: E. Shirene Willis

By FAX:
(703) 872-9306
ATTN: Office of Petitions -- E. Shirene Willis

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
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 8

DAVID GIGLIO, ESQ.
231 Elizabeth Street
Utica NY 13501

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MAY 10 2004

OFFICE OF PETITIONS

In re Application of
Kehrli, et al.
Application No. 10/365,787
Filed: February 14, 2003
Attorney Docket No. N/A
FOR: WATER PROTECTIVE OVER GARMENT

DECISION GRANTING PETITION

This is a decision on the reconsideration petition under 37 CFR 1.137(a), filed April 16, 2004, to revive the above-identified application.

The above-identified application became abandoned for failure to timely reply to the Notice to File Corrected Application Papers, mailed March 26, 2003, which set an extendable period for reply of two (2) months to submit replacement drawings. Having received no replacement drawings, this application became abandoned on May 27, 2003. A Notice of Abandonment was mailed on February 3, 2004.

Petitioners have shown that submission of replacement drawings was unavoidably delayed due to an unexpected clerical error committed by a well-trained, experienced secretary who was responsible for entering action dates in a reliable docketing system .

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

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

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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OFFICE OF PETITIONS

WESTMAN CHAMPLIN (MICROSOFT CORPORATION)
SUITE 1400
900 SECOND AVENUE SOUTH
MINNEAPOLIS MN 55402-3244

In re Application of :
Hammer, et al. : DECISION ON PETITION
Application No. 10/365,824 :
Filed: February 13, 2003 :
Atty. Dkt. No: M61.12-0471 :

This decision is in response to the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed August 27, 2008.

The petition under 37 CFR 1.181 to withdraw the holding of abandonment is hereby **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 1.181 This is not a final agency decision.

The application became abandoned July 22, 2008 for failure to timely submit a proper reply to the Notice of Allowance and Issue Fee Due (Notice) mailed April 12, 2008. The Notice set a three month statutory period of time for reply. Notice of Abandonment was mailed August 15, 2008.

Petitioners assert non-receipt of the Notice. Petitioners indicate that searches of the file jacket, docket records, and mail log records indicate that the Notice was not received. Petitioners have included a copy of the docket records for the instant application and have also submitted what appears to be a copy of practitioner's mail log.

The showing required to establish non-receipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would

include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response. Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required. A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the non-received Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the non-received Office action must be submitted as documentary proof of non-receipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

The instant petition does not establish non-receipt of the Notice in compliance with the procedures set forth at MPEP 711.03(c). Specifically, the petition fails to describe the system used for recording an Office action received at the correspondence address of record with the USPTO. The petition also does not make reference to or provide documentary evidence of a "master docket." Thus, it cannot be found that practitioner's docketing system is sufficiently reliable.

Any renewed petition must establish non-receipt of the final Office action as set forth at MPEP 711.03(c).

ALTERNATE VENUE

Petitioners may wish to consider filing a petition stating that the delay was unintentional. Petitioner's attention is directed to 37 CFR 1.137(b) which provides for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of an issue fee was "unavoidable". An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required petition fee and reply.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a

statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

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

By mail:	**Mail Stop Petition** Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300
By hand delivery:	U.S. Patent and Trademark Office Customer 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
www.uspto.gov

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OFFICE OF PETITIONS

WESTMAN CHAMPLIN (MICROSOFT CORPORATION)
SUITE 1400
900 SECOND AVENUE SOUTH
MINNEAPOLIS MN 55402-3244

In re Application of :
Hammer, et al. : DECISION ON PETITION
Application No. 10/365,824 :
Filed: February 13, 2003 :
Atty. Dkt. No: M61.12-0471 :

This decision is in response to the renewed petition to withdraw the holding of abandonment under 37 CFR 1.181, filed February 10, 2009.

The petition under 37 CFR 1.181 to withdraw the holding of abandonment is hereby **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 1.181 This is not a final agency decision.

The application became abandoned July 22, 2008 for failure to timely submit a proper reply to the Notice of Allowance and Issue Fee Due (Notice) mailed April 12, 2008. The Notice set a three month statutory period of time for reply. Notice of Abandonment was mailed August 15, 2008. A petition under 37 CFR 1.181 was filed August 27, 2008 and dismissed December 22, 2008.

Petitioners continue to assert non-receipt of the Notice. Petitioners indicate that searches of the file jacket, docket records, mail log records, and master docket indicate that the Notice was not received. Petitioners have included a copy of the docket records for the instant application and have also submitted another copy of practitioner's mail log.

The showing required to establish non-receipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response. Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required. A copy of

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

The instant petition does not establish non-receipt of the Notice in compliance with the procedures set forth at MPEP 711.03(c). Specifically, petition acknowledges the existence of a law firm "master docket," but has failed to provide a copy of the master docket, as required by the procedures outlined at MPEP 711.03(c). Instead, petitioners have provided records specific only unto the instant application for patent. Thus, it cannot be found that practitioner's docketing system is sufficiently reliable.

Any renewed petition must establish non-receipt of the final Office action as set forth at MPEP 711.03(c).

ALTERNATE VENUE

While petitioners request that the petition be alternatively treated under 37 CFR 1.137(b), such is not possible as the merits of the instant petition and supporting documents do not rise to the level of a grantable petition under 37 CFR 1.137(b). The petition lacks the required reply, the required statement of unintentional delay, and the petition fee has not been assessed, as authorized.

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

By facsimile: (571) 273-8300

By hand delivery: U.S. Patent and Trademark Office
Customer 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/

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 3

KATHLEEN WILLIAMS
PALMER & DODGE LLP
111 HUNTINGTON AVENUE
BOSTON, MA 02199-7613

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MAY 0 1 2003

OFFICE OF PETITIONS

In re Application of
Murchie et al.
Application No. 10/365,826
Filed: February 13, 2003
Attorney Docket No. 22620/2022

: ON PETITION

This decision concerns the March 31, 2003 "Petition for Corrected Filing Date."

The petition is **GRANTED.**

The petition requests a filing date of February 13, 2003, on the basis that the application was deposited in the U.S. Postal Service "Express Mail Post Office to Addressee "service (USPS "Express Mail") on that day rather than on February 14, 2003 as shown by the "date-in" entry on the mailing label bearing the number "EL932825675US." This petition is being properly treated as a petition under 37 CFR 1.10(d).

37 CFR 1.10(d) requires, *inter alia*,[1] a showing, establishing that the requested filing date was the date of deposit of the application in the "Express Mail" service prior to the last scheduled pickup for that day, and, corroborated by evidence from the USPS.[2] The application transmittal letter was accompanied by a February 13, 2003 "Certificate of Mailing under 37 CFR 1.10," indicating that the application papers were being deposited with the "Express Mail" service on that day. This date of deposit is corroborated by the USPS date-stamp of February 13, 2003 on the same mailing label, as well as information contained in the official USPS website. The petition is thus granted. No fee is owed.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of February 13, 2003 and for issuance of a corrected filing receipt reflecting that filing date. 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

---

1 37 CFR 1.10(d)(1) requires that the petition be filed promptly after the person becomes aware of the incorrect "date-in" entry by the USPS. This requirement is considered met. Also, as required by 37 CFR 1.10(d)(2), the "Express Mail" mailing label number is on the application transmittal letter.

2 37 CFR 1.10(d)(3); MPEP section 513 (Feb. 2003).

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.
10/365,832	02/13/2003	David M. Tucker	205-0036US	7346

29855 7590 08/31/2007

WONG, CABELLO, LUTSCH, RUTHERFORD & BRUCCULERI, L.L.P.
20333 SH 249
SUITE 600
HOUSTON, TX 77070

EXAMINER	
FITZGERALD, JOHN P	

ART UNIT	PAPER NUMBER
2856	

MAIL DATE	DELIVERY MODE
08/31/2007	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

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P.O. Box 1450
Alexandria, VA 22313-1450
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082007

Wong, Cabello, Lutsch, Rutherford & Brucculeri, L.L.P.
20333 SH 249, Suite 600
Houston, TX 77070

AUG 31 2007

In re Application of David M. Tucker et al. :
Appl. No.: 10/365,832 : DECISION ON PETITION
Filed: February 13, 2003 : UNDER 37 C.F.R. §1.59
Attorney Docket No.: 205-0036US :
For: SUBSEA VEHICLE ASSISTED PIPELINE :
COMMISSIONING METHOD :

This is a decision on the petition under 37 C.F.R. §1.59(b), filed July 3, 2006, to expunge information filed concurrently therewith from the above-identified application. A corrected petition to expunge was filed on July 5, 2006. The application has been allowed and a Notice of Allowance and Fee(s) Due was mailed on September 28, 2006.

The petition is GRANTED.

Petitioner asserts that that the Information Disclosure Statement (IDS), filed on July 3, 2006, is proprietary and requests that it be expunged from the record.

The information in question has been determined by the undersigned to not be material to the examination of the instant application and may be expunge. The expunged material, listed as an Artifact in the Image File Wrapper, has been removed from the official file and is being returned with this decision. Note that this material is still listed as an Artifact in the Contents of the Image File Wrapper.

Applicant is required to retain the expunged material(s) for the life of any patent which issues on the above-identified application.

Any inquiry regarding this decision should be directed to Hezron Williams, Supervisory Patent Examiner, at (571) 272-2208.

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

Enclosure: Proprietary Material submitted July 3, 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

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KEOWN & ASSOCIATES
500 WEST CUMMINGS PARK
SUITE 1200
WOBURN MA 01801

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OFFICE OF PETITIONS

In re Application of	:	
Agrawal et al.	:	
Application No. 10/365,834	:	ON PETITION
Filed: February 13, 2006	:	
Attorney Docket No. HYB-004US2	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed November 20, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the Issue Fee Transmittal with payment of the issue and publication fee; (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) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MERCHANT & GOULD P.C.
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

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MAY 10 2007

OFFICE OF PETITIONS

In re Application of :
PERRIER, Eric et al. :
Application No. 10/365,853 : DECISION ON PETITION
Filed: February 12, 2003 : TO WITHDRAW
Attorney Docket No. **11123.62US01** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 22, 2007.

The request is **APPROVED**.

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

The request was signed by Sarah M. Monfeldt. Sarah M. Monfeldt has been withdrawn, all other attorneys remain of record. The correspondence address of record remains unchanged.

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

Monica A. Graves
Petitions Examiner
Office of Petitions

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100 CAMPUS DRIVE
FLORHAM PARK NJ 07932

MAILED

JAN 14 2010

OFFICE OF PETITIONS

In re Application of :
Perrier, et al. :
Application No. 10/365,853 : ON PETITION
Filed: February 12, 2003 :
Attorney Docket No. 5247 US :

This is in response to petition to revive an unintentionally abandoned application 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 proper response to the Notice of Non-Compliant Amendment, mailed November 26, 2008, which set an extendable period for reply of one month. No reply having been received, the application became abandoned on December 27, 2008. The Office mailed a Notice of Abandonment on July 2, 2009.

With the instant petition, petitioner paid the petition fee, made the proper statement of unintentional delay, and submitted the required reply in the form of an Amendment.

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.

The application is being forwarded to Group Art Unit 1657 for consideration of the Amendment, filed November 13, 2009.

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

Cliff Congo
Petitions Attorney
Office of Petitions

cc: Scott L. Appelbaum
1300 Woodbury Road
Woodbury, NY 11797

#4

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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JAN 29 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Elizabeth R. Hall
1722 Maryland Street
Houston, TX 77006-1718

In re application of
Shelby Frink
Application No. 10/365,858 :
Filed: February 13, 2003 :
For: ARRANGEMENT FOR SELF ELEVATING DRILLING RIG :

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

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

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) above.

Given the stated reason for the withdrawal it is unclear whether the attorney signing the request, Elizabeth R. Hall, is signing on behalf of herself onlyh or on behalf of herself and the other attorney of record, Jo Katherine D'Ambrosio. For all of the attorneys of record to be withdrawn a clear statement that the attorney signing the request is signing *on behalf of all the attorneys of record* is required.

Randolph A. Reese
Special Programs Examiner
Patent Technology Center 3600
(703) 308-2121

RAR/cps: 1/22/04

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Agfa Corporation
Law & Patent Department
200 Ballardvale Street
Wilmington, MA 01887

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OCT 16 2006

OFFICE OF PETITIONS

In re Application of :

Christ Tuijn et al. :
Application No. 10/365,860 : DECISION ON PETITION
Filed: February 13, 2003 : TO WITHDRAW
Attorney Docket No. XP-1072 : 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 19, 2006.

The request is **NOT APPROVED**.

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

The request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

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

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

Diana C. Walsh for
Amelia Au
Petitions Examiner
Office of Petitions

cc: **Milde Hoffberg & Macklin, LLP**
10 Bank Street, Suite 460
White Plains, NY 10606

UNITED STATES PATENT AND TRADEMARK OFFICE

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

AGFA CORPORATION
PATENT DEPARTMENT
200 BALLARDVALE STREET
WILMINGTON MA 01887

COPY MAILED

FEB 13 2007

OFFICE OF PETITIONS

In re Application of
Chris Tuijn et al.
Application No. 10/365,860
Filed: February 13, 2003
Attorney Docket No. XP-1072

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 6, 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, ***I have been asked by Agfa-Gavaert to transfer case.....***, do not meet any the conditions set forth in 37 CFR 10.40 because 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 Terri Williams at 571-272-2991.

J. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Milde Hoffberg & Macklin LLP**
10 Bank Street, Suite 450
White Plains, NY 10606

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AGFA CORPORATION
PATENT DEPARTMENT
200 BALLARDVALE STREET
WILMINGTON MA 01887

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FEB 14 2007

OFFICE OF PETITIONS

In re Application of
Chris Tuijn et al.
Application No. 10/365,860
Filed: February 13, 2003
Attorney Docket No. XP-1072

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 6, 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, ***I have been asked by Agfa-Gavaert to transfer case.....***, do not meet any the conditions set forth in 37 CFR 10.40 because 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 Terri Williams at 571-272-2991.

J. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Milde Hoffberg & Macklin LLP**
10 Bank Street, Suite 450
White Plains, NY 10606

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/04/05

TO SPE OF : ART UNIT **1626**

SUBJECT : Request for Certificate of Correction on Patent No.: 10/365892 6930187

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

Angela Green
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:

JOSEPH K. McKANE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600
SPE

1626
Art Unit

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BASF Beauty Care Solutions France
100 Campus Drive
Florham Park NJ 07932

MAILED

JAN 15 2010

OFFICE OF PETITIONS

In re Application of :
Eric Perrier et al. :
Application No. 10/365,894 : DECISION ON PETITION
Filed: February 12, 2003 :
Attorney Docket No. 5218US :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 25, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed December 19, 2007, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on February 20, 2008. *See* MPEP 1215.04.

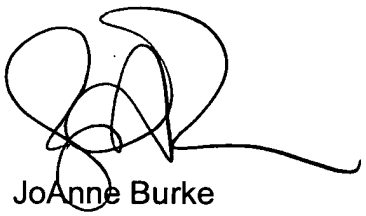
The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay.

It is not apparent whether the 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) 272-4584.

This application is being referred to Technology Center AU 1651 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.



JoAnne Burke
Petitions Examiner
Office of Petitions

cc: Frank Chau
F. Chau & Assoicates, LLC
130 Woodbury Road
Woodbury NY 11797

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MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

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JAN 23 2004

OFFICE OF PETITIONS

In re Application of :
Perrier, et al. :
Application No. 10/365,897 : ON PETITION
Filed: February 12, 2003 :
Attorney Docket No. 11123.60US01 :

This is a decision on the petition under 37 CFR 1.182(a), filed November 17, 2003 to change the order of inventors.

The petition is **GRANTED.**

The joint inventors will be listed on the application as follows:

Eric Perrier
Isabelle Bonnet
Delphine Rival

A corrected filing receipt is enclosed.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Corrected Filing Receipt

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BASF BEAUTY CARE SOLUTIONS FRANCE
100 CAMPUS DRIVE
FLORHAM PARK NJ 07932

MAILED

JAN 14 2010

OFFICE OF PETITIONS

In re Application of	:	
Perrier, et al.	:	
Application No. 10/365,897	:	ON PETITION
Filed: February 12, 2003	:	
Attorney Docket No. 5248 US	:	

This is in response to petition to revive an unintentionally abandoned application 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 proper response to the final Office action mailed July 31, 2007, which set a shortened statutory period for reply of three (3) months. No proper reply having been received, the application became abandoned on November 1, 2007. The Office mailed a Notice of Abandonment on March 13, 2008.

With the instant petition, petitioner paid the petition fee, made the proper statement of unintentional delay, and submitted the required reply in the form of a Notice of Appeal, together with a Pre-Appeal Brief Request for Review.

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 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.

The application is being forwarded to Group Art Unit 1657 for consideration of the Pre-Appeal Brief Request for Review, filed November 13, 2009.

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

Cliff Congo
Petitions Attorney
Office of Petitions

cc: Frank Chau
F. Chau & Associates, LLC
1300 Woodbury Road
Woodbury, NY 11797

UNITED STATES PATENT AND TRADEMARK OFFICE

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COOK, ALEX, McFARRON, MANZO,
CUMMINGS & MEHLER, LTD.
200 WEST ADAMS STREET, SUITE 2850
CHICAGO, IL 60606

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MAR 09 2007

OFFICE OF PETITIONS

In re Application of	:	
Misako Nakazawa et al	:	
Application No. 10/365,911	:	DECISION GRANTING PETITION
Filed: February 13, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 0553-0346	:	

This is a decision on the petition, filed March 8, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 21, 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 2812 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\Mar10\365911.wpd

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No.

FLIESLER MEYER, LLP
FOUR EMBARCADERO CENTER
SUITE 400
SAN FRANCISCO CA 94111

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SEP 25 2006

OFFICE OF PETITIONS

In re Patent No. 7,023,666	:	
Richard Ramsdell	:	
Issue Date: April 4, 2006	:	DECISION ON APPLICATION
Application No. 10/365,912	:	FOR
Filed: February 13, 2003	:	PATENT TERM ADJUSTMENT
Attorney Docket No. PANA-01034US2	:	
SRM/MLR	:	

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. 1.705(b)," filed June 7, 2006, requesting reconsideration of the initial determination of patent term adjustment under 35 U.S.C. 154(b) of 9 days.

The application for patent term adjustment under § 1.705(b) is **DISMISSED AS UNTIMELY FILED**.

Patentee is given **TWO (2) MONTHS** to respond to this decision. No extensions of time will be granted under § 1.136(a).

35 U.S.C. 154(b) provides for patent term adjustment for examination delay. Pursuant to 35 U.S.C. 154(b)(3)(B) and implementing regulation 37 C.F.R. § 1.705, an applicant shall receive an initial determination of patent term adjustment with the mailing of the Notice of Allowance and shall be given one opportunity to request reconsideration of that determination by way of filing of an application for patent term adjustment prior to the payment of the issue fee.

On November 2, 2005, the Office mailed a 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 9 days. This determination was based in part of the reduction of 83 days associated with the Information Disclosure Statement (IDS) filed February 17, 2005. PALM records indicate that the issue fee payment was received in the Office on January 25, 2006. No filing of an application for patent term adjustment preceded the payment of the issue fee. The period for filing an application for patent term adjustment requesting reconsideration of the initial determination of patent term adjustment at the time of mailing of the notice of allowance ended January 25, 2006. Accordingly, it is appropriate to dismiss this petition as untimely filed under 1.705(b).

Consideration under 1.705(d) is not appropriate. As stated in MPEP 2730, 1.703(d) provides that:

> If there is a revision to the patent term adjustment indicated in the notice of allowance, the patent will indicate the revised patent term adjustment. If the patent indicates or should have indicated a revised patent term adjustment, any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued and must comply with the requirements of paragraphs (b)(1) and (b)(2) of this section. Any request for reconsideration under this section that raises issues that were raised, or could have been raised, in an application for patent term adjustment under paragraph (b) of this section shall be dismissed as untimely as to those issues.

The issues raised should have been timely raised on application for patent term adjustment under § 1.705(b).

Submission of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fees are required.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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ONE LIBERTY PLACE - 46TH FLOOR
PHILADELPHIA, PA 19103

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MAR 10 2006

OFFICE OF PETITIONS

In re Application of :
James C. Cesario Jr. : DECISION ON PETITION
Application No. 10/365,922 : TO WITHDRAW
Filed: February 13, 2003 : FROM RECORD
Attorney Docket No. BE1-0073US :

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 9, 2005.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the previously appointed power of attorney 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.

This matter is being referred to Technology Center AU 2642 to await applicant's reply to the final Office action mailed January 12, 2006.

Telephone inquires concerning this decision should be directed to Wan Laymon at 571-272-3220.

Amelia Au
Petitions Examiner
Office of Petitions

cc: LEE & HAYES
421 W. RIVERSIDE AVE
SUITE 500
SPOKANE, WA 99201

UNITED STATES PATENT AND TRADEMARK OFFICE

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May 17, 2007

William R. Evans
c/o LADAS & PARRY LLP
26 West 61st Street
New York, NY 10023

Patent No: 7100051 B1
Application No.: 10/365932
Applicant: Aviad Kipnis, et al.
Issued: August 29, 2006
Title: **PUBLIC-KEY SIGNATURE METHODS AND SYSTEMS**

Request for Certificate of Correction:

Consideration had been given to your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule 1.322 and 1/323.

The errors complained of in your request cannot be corrected since the 1050's are not clear enough to read (see attached copy).

However further consideration will be given to your request when you provide clear 1050's suitable for printing.

Virginia Tolbert
For Cecelia Newman, Supervisor
Decisions and Certificate of Correction
(703) 305-8309 or 308-9390 ext.113

vt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
www.uspto.gov

May 17, 2007

Michael L. Robins
FLIESLER MEYER LLP
650 California Street, 14th Floor
San Francisco, CA 94108

Patent No: 6989970 B2
Application No.: 10/365932
Applicant: Christopher Nguyen, et al.
Issued: January 24, 2006
Title: **ROTARY ACTUATOR ASSEMBLEY FOR A ROTABLE MEDIA DATA STORAGE DEVICE**

Request for Certificate of Correction:

Consideration had been given to your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule 1.322 and 1/323.

The errors complained of in your request cannot be corrected since the 1050's are not clear enough to read (see attached copy).

However further consideration will be given to your request when you provide clear 1050's suitable for printing.

Virginia Tolbert
For Cecelia Newman, Supervisor
Decisions and Certificate of Correction
(703) 305-8309 or 308-9390 ext.113

vt

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The Dow Chemical Company
Intellectual Property Section
P.O. Box 1967
Midland MI 48641-1967

MAILED

AUG 11 2009

OFFICE OF PETITIONS

In re Application of :
Niu et al. : DECISION ON PETITION
Application No. 10/365,938 : UNDER 37 CFR 1.137(b)
Filed: 02/12/2003 :
Attorney Docket No. 61992B :

This is a decision on the petition under 37 CFR 1.137(b), filed March 5, 2009, to revive the above-identified application.

The application became abandoned in view of the decision by the Board of Patent Appeals and Interferences rendered on December 23, 2008, and because the period for seeking court review of the decision had expired and there were no allowed claims. The Office mailed a Notice of Abandonment on March 2, 2009.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Accordingly, the petition is **GRANTED.**

This matter is being referred to Technology Center Art Unit 1796.

Telephone inquiries should be directed to the undersigned at (571) 272-3211.

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : April 1, 2010

TO SPE OF : ART UNIT 1796

SUBJECT : Request for Certificate of Correction for Appl. No.: 10365938
Patent No.: 7635741

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D40-C
Palm Location 7580

Certificates of Correction Branch

703-756-1573

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: _____

_____

_____

_____

_____

_____ 1796
SPE **Art Unit**

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

The Dow Chemical Company
P.O. BOX 1967
Midland, MI 48641

Mail Date: 04/21/2010

Applicant	: Q. Jason Niu	: DECISION ON REQUEST FOR
Patent Number	: 7635741	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/365,938	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/12/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **199** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
www.uspto.gov

The Dow Chemical Company
P.O. BOX 1967
Midland, MI 48641

Mail Date: 05/18/2010

Applicant : Q. Jason Niu
Patent Number : 7635741
Issue Date : 12/22/2009
Application No: 10/365,938
Filed : 02/12/2003

: 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 **233** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this PTA calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2), and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this PTA calculation, including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

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OFFICE OF PETITIONS

In re Application of :
Warren M. Farnworth et al :
Application No. 10/365,943 : DECISION GRANTING PETITION
Filed: February 12, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 2269-3926.2US :
(99-0039.02/US)

This is a decision on the petition, filed October 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 June 9, 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 1732 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b) (along with any balance due or the amount due at the time of payment), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*