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Paper No.

JONES DAY
222 EAST 41ST ST
NEW YORK NY 10017

MAILED

FEB 12 2009

OFFICE OF PETITIONS

In re Application of :
Fouchier et al. :
Application No. 10/371,122 : ON APPLICATION FOR
Filed: February 21, 2003 : PATENT TERM ADJUSTMENT
Atty Docket No. 7682-066-999 :

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(b) filed December 31, 2008. Applicant requests that the determination of patent term adjustment be corrected from four hundred thirty-six (436) days to one thousand two hundred eleven (1211) days. Applicant requests this correction on the basis that the Office will take in excess of three years to issue this patent and in light of the recent court decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 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 continued examination (RCE) was filed. The computer will not undertake the § 1.703(b) calculation until the actual date of issuance of the patent has been determined. Accordingly, it is still too soon to make a determination as to the correctness of any period of adjustment that will or will not be entered pursuant to § 1.703(b)).

Applicant is given TWO (2) MONTHS from the issue date of the patent to file a written request for reconsideration of the

patent term adjustment for Office failure to issue the patent within 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.

Rather than file the request for reconsideration of Patent Term Adjustment at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term pursuant to 37 CFR 1.705(d). The USPTO notes that it does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent and accordingly, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent.

It is acknowledged that applicant is correct that any period of adjustment will be entered in light of 35 U.S.C. 154(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY, which provides that:

> Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including —
>
> (i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

It is noted that a Request for Continued Examination (RCE) was filed in this application on May 5, 2008.

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

The application is being forwarded to the Office of Data Management for issuance of the patent. The patent term

adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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Paper No.

JONES DAY
222 EAST 41ST ST
NEW YORK NY 10017

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MAR 10 2010

OFFICE OF PETITIONS

In re Patent No. 7,531,342	:	DECISION ON REQUEST
Fouchier et al.	:	FOR
Issue Date: May 12, 2009	:	RECONSIDERATION OF
Application No. 10/371,122	:	PATENT TERM ADJUSTMENT
Filed: February 21, 2003	:	and
Atty Docket No. 7682-066-999	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on July 6, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand one hundred one (1101) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein.** The patent term adjustment is corrected to indicate that the term of the above-identified patent is extended or adjusted by **one thousand one hundred seventy-nine (1179)** days.

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on February 22, 2006 and ends on May 4, 2008, the day before the first RCE was filed. See 35 U.S.C. 154(b)(1)(B)(i). Thus, the over 3 year period is 803 not 804 days, and considering the 29 days of overlap, the patent term adjustment is being increased by 774 days[1].

Further, applicant delay remains 333 days. A review of the record supports a conclusion that the Office did respond to applicant's papers filed after the mailing of the notice of

[1] The 104 days accorded at issuance for B delay is being removed and the 774 days is being entered pursuant to this decision.

allowance on December 31, 2008. The examiner's communication of that date was consistent with her communication to the printer (that is, the Office of Data Management which required the Corrected Application Papers). See XRUSH dated December 31, 2008. Thus, no change will be made to the periods of reduction entered pursuant to 37 CFR 1.704(c)(10).

However, the Office delay pursuant to 37 CFR 1.702(a)(2) as acknowledged by patentee is being corrected from 41 days to 26 days. The record confirms patentee's disclosure that the notice of allowance was mailed on October 1, 2008, and not October 16, 2008. Using the correct date, the Office delay is 26 days. The period of adjustment of 41 days has been removed and a period of adjustment of 26 days for Office delay has been entered.

In view thereof, the correct patent term adjustment is 1179 (700 + 803 - 29 + 26 + 12 - 333), not 1101 days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

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

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand one hundred seventy-nine (1179)** days.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,531,342 B2

DATED : **May 12, 2009** **DRAFT**

INVENTOR(S) : Fouchier 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 524 days

Delete the phrase "by 524 days" and insert – by 1179 days--

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MEDTRONIC MINIMED INC.
18000 DEVONSHIRE STREET
NORTHRIDGE CA 91325-1219

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SEP 2 1 2005

OFFICE OF PETITIONS

In re Application of	:	
Safabash et al.	:	
Application No. 10/371,137	:	DECISION GRANTING PETITION
Filed: February 21, 2003	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. PF00313 DIV	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed August 29, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

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

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

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional applications is submitted after expiration of the period specified by 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the prior-filed nonprovisional applications has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

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

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

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center Art Unit 3763 for appropriate action on the amendment filed August 29, 2005, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications.

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

ATTACHMENT: Corrected Filing Receipt

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WARD & OLIVO
708 Third Avenue
New York, NY 10017

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JUL 19 2005

OFFICE OF PETITIONS

In re Application of :
Melvin Park : DECISION ON PETITION
Application No. 10/371,152 :
Filed: February 21, 2003 :
Attorney Docket No. 140-093 :

This is a decision on the "PETITION TO CORRECT FILING DATE," filed May 19, 2005, requesting that the filing date of the above-identified application be corrected to February 21, 2003.

Application papers in the above-identified application were deposited on February 21, 2003. On March 31, 2003, the Office mailed a Notice to File Missing Parts of Nonprovisional Application, stating that the application papers had been accorded a filing date of February 21, 2003. The Notice requested payment of the statutory basic filing fee, late surcharge and additional claim fees.

On September 5, 2003, applicant filed the required items and a preliminary amendment. Petitioner asserts that the Office incorrectly changed the filing date of the application to September 5, 2003. In support thereof, applicant submitted the declaration of David Hill and a copy of their postcard receipt.

Petitioner's contention has been considered and determined to be well founded. Office records support a conclusion that the filing date of the application should not have been changed. The record confirms, as stated in the Notice mailed March 31, 2003, that the application as filed is entitled to a filing date. Consideration of petitioner's evidence is unnecessary[1].

[1] Moreover, the evidence provided is persuasive. A postcard receipt, which itemizes and properly identifies the items, which are being filed, serves as prima facie evidence of receipt in the Office of all items listed thereon on the date stamped thereon by the Office. See MPEP 503. A review of petitioner's postcard receipt reveals that: 1) it was date stamped as

Pursuant to 35 U.S.C. 111(a)(4),

> The filing date of an application shall be the date on which the specification and any required drawing are received in the Patent and Trademark Office.

As the specification and required drawings were present in the application on receipt on February 21, 2003, the application is entitled to a filing date of February 21, 2003. The subsequent filing of a response to the Notice does not ordinarily change the filing date of an application. The record reveals no basis for concluding that the filing date should have been changed to the later date of filing of the preliminary amendment in this instance.

In view thereof, the petition is **GRANTED**.

Given the basis for granting the petition, the petition fee is subject to refund. No petition fee has been charged.

The Office of Initial Patent Examination (OIPE) has been advised of this decision and the filing date of this application has been **corrected to February 21, 2003**, using the application papers received in the Office on that date. Applicant will receive appropriate notifications regarding the fees owed, if any, and other information in due course from OIPE.

Applicant is advised that the instant application is considered abandoned for failure to file a timely and proper response to the final Office action mailed September 23, 2004.

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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received in the Office on February 21, 2003; and reflects the assignment of application No. 10/371,152 2) it specifically identifies the items being filed, including "50 pages of specification, (14 pages of claims) and 9 sheets of drawings" and 3) it lacks any annotation of nonreceipt of any item denoted on the postcard. Thus, petitioner has shown that the items denoted were filed on February 21, 2003.

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708 THIRD AVENUE
NEW YORK, NY 10017

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SEP 2 1 2005

OFFICE OF PETITIONS

In re Application of	:	
Melvin A. Park	:	
Application No. 10/371,152	:	ON PETITION
Filed: February 21, 2003	:	
Attorney Docket No. 140-093	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 12, 2005, to revive the above-identified application.

The petition is **GRANTED**.

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 above-identified application became abandoned for failure to reply in a timely manner to the final Office action mailed September 23, 2004, which set a shortened statutory period for reply of three (3) months. Three months extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on March 24, 2005.

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

This matter is being forwarded to Technology Center AU 2881 for further processing.

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

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Paper No. 4

SOFER & HAROUN, LLP
Suite 910
317 Madison Avenue
New York, NY 10017

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NOV 2 1 2003

OFFICE OF PETITIONS

In re Application of:
Alain Vincent and Richard Biaud
Application No. 10/371,153
Filed: February 21, 2003
Title of Invention:
CASSETTE FOR COILING OPTICAL FIBERS

ON PETITION

This is in response to a Petition under 37 CFR 1.47(a), filed October 2, 2003, to allow the other inventor to proceed with the application on behalf of himself 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, Richard Biaud, cannot be found or reached after diligent effort.

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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SCHWEGMAN LUNDBERG & WOESSNER, PA
P.O. BOX 2938
MINNEAPOLIS, MN 55402

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FEB 2 1 2008

OFFICE OF PETITIONS

In re Application of :
VILENDRER, et al. :
Application No. 10/371,175 : DECISION ON PETITION
Filed: February 19, 2003 : TO WITHDRAW
Attorney Docket No. **20070126.ORI** : 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 15, 2007.

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

A review of the file record indicates that the power of attorney to **SCHWEGMAN LUNDBERG & WOESSNER, PA** has been revoked by the assignee of the patent application on January 28, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **NIKOLAI & MERSEREAU, PA**
900 SECOND AVENUE SOUTH, SUITE 820
MINNEAPOLIS, MN 55402

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United States Patent and Trademark Office
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Paper 7

PERKINS COIE LLP
PATENT-SEA
P.O. BOX 1247
SEATTLE WA 98111-1247

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MAY 2 7 2004

OFFICE OF PETITIONS

In re Application of :
Byers et al. :
Application No.10/371,176 :
Filed: February 19, 2003 :
Attorney Docket No. 25414-8002.US01 :
Title of Invention: METHOD OF :
GENERATING CONTROL COMMANDS :
IN A DISTRIBUTED MASS DATA
STORAGE LIBRARY NETWORK

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), filed April 2, 2004, to revive the above-identified application.

This above-identified application became abandoned for failure to file a response to a Notice to file Missing Parts of a Nonprovisional Application which was mailed on April 8, 2003. The Notice to File Missing Parts set an extendable two (2) month period for reply. No timely request for extensions of time were obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on June 9, 2003. A Notice of Abandonment was mailed on February 2, 2004.

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

The Office acknowledges receipt of the preliminary amendment submitted on April 23, 2004

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

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

Charlema R. Grant
Petitions Attorney
Office of Petitions

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Paper No. 5

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JAN 14 2004

OFFICE OF PETITIONS

NIXON & VANDERHYE, PC
1100 N GLEBE ROAD
8TH FLOOR
ARLINGTON, VA 22201-4714

In re Application of:
Maguire III et al.
Application No. 10/371,181
Filed: February 24, 2003
Title of Invention: CONVERSION ENGINE AND FINANCIAL REPORTING SYSTEM USING THE CONVERSION ENGINE

ON PETITION

This is in response to a petition under 37 CFR 1.47(a), filed October 24, 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 24, 2003, without, *inter alia*, a fully executed oath or declaration. The Office mailed a Notice to File Missing Parts of Nonprovisional Application (hereinafter "Notice"), on March 25, 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 in the above-identified application and to execute the necessary Declaration and Assignment. This assertion is supported by Declaration of William Haney, wherein Mr. Haney avers that he wrote to the nonsigning inventor requesting that he execute the Declaration and an Assignment for the above-identified application, and further that Mr. Haney exchanged e-mails with the nonsigning inventor who, while stating that he would contact

his former employer regarding signing the Declaration, has yet to respond to Mr. Haney.

Applicable Law

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) 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).

Here, Applicant avers that he "wrote to [the nonsigning inventor] at his last known address . . . and asked that he execute the Incentors Declaration and an Assignment for the above identified patent application." Applicant, however, does not aver that the application (specification, claims and drawings) was sent to the nonsigning inventor. Accordingly, where it is alleged that an inventor refuses to join an application, the MPEP requires that a copy of the application be sent to the nonsigning inventor. See, MPEP 409.03(e).

Applicant must mail the application to the last known address of the nonsigning inventor. The last known address is the address where the inventor customarily receives mail. Where a reasonable period for reply has passed without a response, this will be construed as a refusal to join in the application.

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

By mail: Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

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

By hand: 2201 South Clark Place
Customer Window
Crystal Plaza Two, Lobby Room 1B03
Arlington, VA 22202

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

Derek L. Woods
Petitions Attorney
Office of Petitions

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ARLINGTON, VA 22201-4714

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MAR 0 4 2004

OFFICE OF PETITIONS

In re Application of:
Maguire III et al.
Application No. 10/371,181
Filed: February 24, 2003
Title of Invention: CONVERSION ENGINE AND FINANCIAL REPORTING SYSTEM USING THE CONVERSION ENGINE

DECISION NOTING JOINDER OF INVENTOR

This is in response to the Request for Reconsideration Petition Under 37 CFR 1.47(a) and Submission of Complete Rule 63 Executed Inventor's Declaration, filed January 28, 2004, noting the joinder of the inventor.

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

The Declaration/Power of Attorney has been entered and made of record.

This application is being returned to the Office if Initial Patent Examination for further 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

Paper No.: _____

DATE : 06/08/10

TO SPE OF : ART UNIT 3627

SUBJECT : Request for Certificate of Correction for Appl. No.: 10371181 Patent No.: 7565311

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (C of C)
Randolph Square 9D40-D
Palm Location 7580

You can fax the 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.

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

Comments: All of the corrections are approved.

/F. Zeender/
SPE 3627

3627

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APR 15 2005

Technology Center 2100

MCDERMOTT WILL & EMERY LLP
600 13TH STREET, N.W.
WASHINGTON DC 20005-3096

In re Application of: AKAMATU Et Al.
Application No. 10/371,212
Filed: February 24, 2003
For: METHOD, PROGRAM AND SYSTEM FOR MANAGING OPERATION

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 10, 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. 6

MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

In re Application of
Ayres, Kondratuk, and Chen
Application No. 10/371,239
Filed: February 20, 2003
Attorney Docket No. 9304.42USC1
For: LATCH APPARATUS

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

COPY MAILED

OCT 02 2003

OFFICE OF PETITIONS

This is a decision on the petition under 37 CFR 1.47(a), filed June 27, 2003.

The petition is **DISMISSED**.

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

Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in an affidavit or declaration.

Lou Madlem spoke with one of the two non-signing inventors on several occasions. Mr. Madlem cites "several undocumented verbal conversations with Mr. Kondratuk." Petitioner should summarize the content of the conversations and should state whether or not Mr. Kondratuk ever gave a reason for his refusal. If a reason was given, then such reason should be stated in the request for reconsideration.

In order to expedite consideration, petitioner may wish to submit the renewed petition under 37 CFR 1.47 by facsimile transmission to the telephone number indicated below and to the attention of the undersigned.

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

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

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

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 9

MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

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DEC 2 2 2003

OFFICE OF PETITIONS

In re Application of :
Ayres, Kondratuk, and Chen :
Application No. 10/371,239 :
Filed: February 20, 2003 :
Attorney Docket No. 9304.42USC1 :
For: LATCH APPARATUS :

DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the renewed petition under 37 CFR 1.47(a), filed December 8, 2003.

The petition is **granted.**

Petitioner should note that the correct application no. for the instant application is 10/371,239. The application number listed on the petition is 10/206,152 which appears to be the number assigned to a parent application.

Petitioner has shown that the non-signing inventors have refused to join in the filing of the above-identified application after having been presented with the application papers or cannot be located.

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

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

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

FLIESLER MEYER LLP
650 CALIFORNIA STREET
14TH FLOOR
SAN FRANCISCO, CA 94108

Mail Date: 04/20/2010

Applicant	: Ananthan Srinivasan	: DECISION ON REQUEST FOR
Patent Number	: 7617289	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/371,247	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/20/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1175** 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.

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)
6878618	2005-04-12	10371253	2003-02-20	P8847D

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	/Jeffrey S. Draeger/	Date (YYYY-MM-DD)	2009-11-02
Name	/Jeffrey S. Draeger/	Registration Number	41000

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

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6878618
Issue Date: April 12,2005
Application No. 10371253
Filed: February 20,2003
Attorney Docket No. ITO.0533D1US (P8847D)

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

This is a decision on the electronic petition, filed November 3,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of November 3,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT and TRADEMARK OFFICE
UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

MAY 21 2003

UR
PAPER NO. 3

In re Application of :
Vladimir Knezevic et al. :
Serial No. 10/371,257 :
Filed: February 21, 2003 :
For: RAPID ASSAY, METHOD AND SYSTEMS :
FOR DETECTING BIOWARFARE :
AGENTS :

DECISION ON
PETITION UNDER
M.P.E.P. 708.02(XI)

This is in response to the petition filed February 21, 2003, requesting that the above-identified application be granted Special Status under Sections 37 CFR 102(c) and 708.02 (XI) of the MPEP. The petition fee under 37 CFR 1.17(h) has been paid.

The petition has been considered and found to comply with the requirements set forth under the above-noted section. Accordingly, the petition is **GRANTED.**

JMStone

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

Klarquist Sparkman, LLP
121 SW Salmon Street, Suite 1600
Portland, OR 97204

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

Docket Administrator (Room 3J-219)
Lucent Technologies Inc.
101 Crawfords Corner Road
Holmdel NJ 07733-3030

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FEB 04 2008

OFFICE OF PETITIONS

In re Application of

Lifton, et al. :

Application No. 10/371,258

: DECISION ON PETITION

Filed: February 21, 2003

:

Attorney Docket No. 3-7-13

This is a decision on the petition under 37 CFR 1.137(b), filed August 10, 2007, 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 September 6, 2006, which set a shortened statutory period for reply of three (3) months from its mailing date. No extension of time pursuant to 37 CFR 1.136(a) was obtained within the allowable period. Accordingly, the application became abandoned on December 7, 2006.

The amendment filed August 10, 2007, is noted.

The request for an extension of time within the third month, filed August 10, 2007, is noted but cannot be granted as the request was made outside the maximum statutory period for reply and the application was already in an abandoned status. The amount of $1020.00 will be refunded, in due course.

The application is being forwarded to Technology Center 2800, GAU 2841 for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Docket Administrator - Room 3D-201E
Alcatel-Lucent USA Inc.
600-700 Mountain Avenue
Murray Hill, NJ 07974

Mail Date: 04/21/2010

Applicant	: Victor Alexander Lifton	: DECISION ON REQUEST FOR
Patent Number	: 7573723	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/371,258	: 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 **1522** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 20060731

DATE : 7/24/06

TO SPE OF : ART UNIT 3738

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/371265 Patent No.: 6989029

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

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

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

HENRY RANDALL
Certificates of Correction Branch
703-308-9390 ext.

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments:

Although errors were made in the printing of the patent, many of the proposed changes do not coincide with the actual text that should be present. For example, the proposed rewrite of claim 2 attempts to change claim 2 to have the text that claim 4 should have had. The proposed change to claim 4 would not include the language of previous claim 31; see the Issue Classification sheet dated June 20, 2005.

SPE — Art Unit 373

UNITED STATES PATENT AND TRADEMARK OFFICE

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JEAN-PAUL HOFFMAN
PILLSBURY WINTHROP
1600 TYSONS BOULEVARD
MCLEAN, VA 22102

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OFFICE OF PETITIONS

In re Patent No. 6,885,488 :
Issue Date: April 26, 2005 :
Application No. 10/371,269 : LETTER
Filed: February 20, 2003 :
Attorney Docket No. 49823/MJM/O195 :

This is in response to the paper filed April 19, 2005, which is being treated under 37 CFR 1.27(g)(2) requesting that status as a Small Entity be removed.

In accordance with the April 19, 2005 request, status as a Small Entity has been removed.

This matter is being referred to Files Repository.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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FROM DIRECTORS OFFICE

JUL 28 2005

TECHNOLOGY CENTER 3600

ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON VA 22209-3873

In re Application of :
M. Ezumi et al. :
Application No. 10/371,273 :
Filed: February 24, 2003 :
For: FRICTION STIR WELDING METHOD, :
AND HOLLOW SHAPE MEMBER :
FOR FRICTION STIR WELDING :

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in reply to applicant's request (petition) to withdraw erroneous holding of abandonment received February 22, 2005.

The petition is **GRANTED**.

A review of the file record indicates that the application was held abandoned for failure to timely file a proper response to the Office action mailed December 17, 2003, which set a three- month shortened statutory period. A Notice of Abandonment was mailed December 22, 2004 stating that no reply was received.

Applicant contends that a response was timely filed on March 17, 2004, and provides a copy of the aforementioned Amendment, with original signature thereon, and postcard receipt from the USPTO, acknowledging receipt of this paper on March 17, 2004.

A review of the file shows the original copy of the aforementioned amendment, date-stamped March 17, 2004 by OIPE. As the amendment was timely filed within the three-month shortened statutory response period, abandonment was improper.

Applicant further contends that the December 17, 2003 Office action was a non-final Office Action as can be seen in the PAIR database and as evidenced from a telephone communication with Examiner Varner on June 7, 2004. This is not found persuasive. The December 17, 2003 Office Action clearly indicates on page 1 (the PTOL-326 from) that the Office action is Final. The PAIR database entry does not override this fact. There is no record of any telephone communication with Examiner Varner. Examiner Varner failed to issue a supplemental non-final Office Action. As such the December 17, 2003 Office Action is considered a Final Office Action.

The application is being forwarded to the Supervisory Legal Instruments Examiner with instructions to withdraw the holding of abandonment and restore the application to pending status. The application will then be forwarded to the examiner for consideration of the March 17, 2004 after-final amendment including reconsideration of the finality of the Office Action mailed December 17, 2003 requested therein.

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

SNM/rjc: 07/19/05

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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SCHWEGMAN, LUNDBERG & WOESSNER/EBAY
P.O. BOX 2938
MINNEAPOLIS, MN 55402

Mail Date: 04/20/2010

Applicant	: Alan S. Fisher	: DECISION ON REQUEST FOR
Patent Number	: 7596510	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/371,274	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/14/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1779** 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 22313-145

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OFFICE OF THE DIRECTOR
TC 3600

BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 Wilshire Boulevard
Seventh Floor
Los Angeles, CA 90025-1030

In re application of
Alan S. Fisher et al
Application No. 10/371,296
Filed: February 14, 2003
For: METHOD AND SYSTEM FOR PROVIDING ORDER STATUS INFORMATION USING A NETWORK ADDRESS

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on November 15, 2004, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. Besides giving due notice to his or her client and delivering to the client all papers and property to which the client is entitled as specified under 37 CFR 10.40, approval of such a request requires that the following conditions be met:

A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;

B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and

C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

The request to withdraw as attorney is not accepted in the above-identified application because the request lacks condition B) above.

As to condition B), the reason "Discontinuation of the attorney client relationship", is not appropriate since it is not clear that the client initiated the transfer, or that the client knowingly or freely assents to the transfer to new counsel. A proper reason for withdrawal is enumerated in 37 CFR 10.40(b) subsections (1)-(4) or subsections (1)-(6) of 37 CFR 10.40(c) must be provided.

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

SNM/pav: 12/28/04

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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July 13, 2004

Tsugihiko Suzuki
Mead Westvaco Corporation, Law Department
4850D North Church Lane
Smyrna, Ga 30080

In re application of:
Philipe LeBras DECISION ON PETITION
Serial No.: 10/371,297
Filed: February 21, 2003
For: A TRAY CONTAINER AND BLANK

This is a decision on the petition received by fax on February 11, 2004, to withdraw the holding of abandonment in the above-identified application.

The petition is Granted.

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R. 1.113 in timely manner to the Notice to File Missing Parts of Application mailed April 10, 2003. Which set a shortened statutory period for reply of two (2) months. Accordingly, this application became abandoned June 11, 2003. The notice of abandonment was mailed January 30, 2004.

The evidence submitted is sufficient to establish that the petitioners responded to the Notice to File Missing Parts mailed June 5, 2003.

The documents received in the Patent and Trademark Office on June 5, 2003 has not been associated with the above application. In order to complete the application Counsel is given two months to submit the missing documents.

These documents can be mailed or faxed to the office. If faxed send them to the attention of Doshie Day fax number 703-305-9822.The office regrets any inconvenience this may have caused the client.

Telephone inquiries concerning this matter may be directed to Doshie E. Day at (703) 308-3640.

Doshie E. Day
Program Management Assistant
Office Initial Patent Examination

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MEADWESTVACO CORPORATION
LAW DEPARTMENT
4850 D NORTH CHURCH LANE, SE
SMYRNA, GA 30080

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OFFICE OF PETITIONS

In re Application of
Philippe Lebras
Application No. 10/371,297
Filed: February 21, 2003
Attorney Docket No. D-7848

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 30, 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 8, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed November 8, 2005. Accordingly, the date of abandonment of this application is February 9, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1400 and the publication fee of $300, (2) the petition fee of $1500; and (3) a proper statement of unintentional delay.

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

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

Irvin Dingle
Petitions Examiner
Office of Petitions

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ALEXANDRIA, VA 22313-1450
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TRASK BRITT
P O BOX 2550
SALT LAKE CITY, UT 84110

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MAR 19 2004

OFFICE OF PETITIONS

In re Application of
Tongbi Jiang et al
Application No. 10/371,301
Filed: February 21, 2003
Attorney Docket No. 3086.11US(96-1006.11/US)

: DECISION GRANTING PETITION
: UNDER 37 CFR 313(c)(2)

This is a decision on the petition, filed March 16, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 5, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2827 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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Tarek N. Fahmi
BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 Wilshire Boulevard
Seventh Floor
Los Angeles, CA 90025-1030

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APR 11 2005

Technology Center 2100

In re Application of:
Russell S. Rive
Application No. 10/371,319
Filed: February 20, 2003
For: METHOD OF MANAGING A SOFTWARE ITEM ON A MANAGED COMPUTER SYSTEM

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed December 02, 2004.

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

The request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

for

Vincent N. Trans
Special Program Examiner
Technology Center 2100

cc: Andre L. Marais
SCHWEGMAN, LUNDBERG, WOESSNER &
KLUTH, P.A.
P.O. Box 2938
Minneapolis, MN 55402

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Mail Date: 04/30/2010

Applicant	: Russell S. Rive	: DECISION ON REQUEST FOR
Patent Number	: 7627902	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/371,319	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/20/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1038** 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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ALEXANDRIA, VA 23313-1450
WWW.USPTO.GOV

Mailed: MAR 31 2004

DWW
Paper No. ____

In re Application of Shobha Kantameni et al.
Serial No.: 10/371,323
Filed: February 21, 2003

DECISION ON PETITION UNDER *37 CFR 1.48(b)*

For: FLUORINATED POLYMERIC PAPER SIZES AND SOIL-RELEASE AGENTS

This is a decision on the PETITION TO DELETE CORRECTLY NAMED PERSON WHO IS NOT INVENTOR OF INVENTION NOW BEING CLAIMED (37 C.F.R. § 1.48(b)) filed February 21, 2003 to correct inventorship under 37 CFR 1.48(b) by deleting the names of Franz Dirschl from the list of inventors of the instant application.

It is noted that the applicant has met the requirements of (1) a petition including a statement identifying each named inventor who is being deleted and acknowledging that the inventor's invention is no longer being claimed in the application; and (2) the fee set forth in 37 CFR 1.17(i).

The petition is **GRANTED**.

The application file is being forwarded to the appropriate section of the Patent and Trademark Office for correction of the record.

David W. Wu
Supervisory Patent Examiner
Art Unit 1713
Technology Center 1700

Ciba Specialty Chemicals Corporation
Patent Department
540 White Plains Road
P.O. Box 2005
Tarrytown, NY 10591-9005

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 7/16/07 **Paper No.:** _____

TO SPE OF : ART UNIT 1744

SUBJECT : Request for Certificate of Correction on Patent No.: 7172859

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.**

CHANGE TO SA APPROVED?

Thank You For Your Assistance

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

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

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

Comments:

GLADYS JP CORCORAN
SUPERVISORY PATENT EXAMINER

1744
SPE Art Unit

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CHALKER FLORES, LLP
2711 LBJ FRWY
Suite 1036
DALLAS TX 75234

In re Application of	:
Charles R. Roe	:
Serial No.: 10/371,385	: PETITION TO MAKE SPECIAL
Filed: February 21, 2003	:
Attorney Docket No.: BHCS:1003	:

This is in response to the petition filed July 17, 2006, 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. Therefor the petition is **GRANTED**.

The application will be forwarded to the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission to the general Office facsimile number, 571-273-8300.

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

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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APR 12 2005

Karen M. Gerken
Epstein & Gerken
Suite 340
1901 Research Boulevard
Rockville MD 20850

In re Application of	:	
Chun Lim Abbott et al	:	DECISION PETITION
Serial No.: 10/371,395	:	
Filed: February 20, 2003	:	
Title: Methods of Treating Abnormal Biological Conditions by Vaginal Douching	:	

This is in response to the petition applicant filed on September 1, 2004 to make the above-identified application special under the provisions of 37 CFR 1.102(d).

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, VIII, thus the petition is **GRANTED**.

The application will be forwarded to the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact Richard Bertsch by letter addressed to the Director, Technology Center 3700 or by telephone at (571)272-4050 or by facsimile transmission at (703)872-9306.

Richard A. Bertsch, Director
Technology Center 3700

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PHARMACIA CORPORATION
GLOBAL PATENT DEPARTMENT
POST OFFICE BOX 1027
ST. LOUIS MO 63006

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OFFICE OF PETITIONS

ON PETITION

In re Application of
Crea
Application No. 10/371,404
Filed: February 20, 2003
Attorney Docket No. PC33164/2
For: WALK-THROUGH MUTAGENESIS

This is a decision on the petition under 37 CFR 1.137(b), filed March 30, 2009, to revive the above-identified application.

This application became abandoned as a result of petitioner's failure to file an appropriate follow-up submission to the Notice of Appeal, filed June 11, 2008, within two (2) months of the filing of the Notice of Appeal. As an appropriate follow-up submission was not filed within two (2) months of the filing of the Notice of Appeal, filed June 11, 2008, 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 August 12, 2008. *See* MPEP 1215.04. A Notice of Abandonment was mailed on January 29, 2009.

Applicant has submitted a proper reply in the form of an RCE and $810.00 required fee and an amendment as the submission, an acceptable statement of the unintentional nature of the delay in filing a follow-up submission to the Notice of Appeal, and the $1,620.00 petition fee.

The petition is **GRANTED**.

After the mailing of this decision the application will be forwarded to Technology Center AU 1639 for consideration of the RCE filed on March 30, 2009.

Telephone inquiries pertaining to this decision may 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

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DEC 27 2004

Townsend and Townsend and Crew, LLP
Two Embarcadero Center
Eighth Floor
San Francisco, CA 94111-3834

MAILED

DEC 27 2004

OFFICE OF THE DIRECTOR
TC 3600

In re application of : **DECISION ON PETITION**
Masanori Honda, et al. : **TO MAKE SPECIAL**
Application No. 10/371, 409 : **(ACCELERATED EXAMINATION)**
Filed: February 20, 2003 :
For: JOB PROCESSING METHOD, JOB PROCESSING UNIT, AND STORAGE MANAGING SYSTEM

This is in response to the petition filed on November 15, 2004, to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02, VIII.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

In satisfaction of item (B) above, the petitioner states, "If the Office determines all the claims presented are not obviously directed to a single invention, then Applicants will make an election without traverse as a prerequisite to the grant of special status."

Since all of the requirements for special status under MPEP § 708.02, VIII have been met, the petition is **GRANTED**.

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

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

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

KJD/rwg: 12/16/04

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OFFICE OF PETITIONS

SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVE
SUITE 6300
SEATTLE WA 98104-7092

In re Application of :
Abbott, et al. :
Application No. 10/371,436 : ON PETITION
Filed/Deposited: 21 February, 2003
Attorney Docket No. 29443-8003US2

This is a decision on the petition filed on 19 May, 2006, requesting withdrawal of the holding of abandonment under 37 C.F.R. §1.181, alternatively alleging unavoidable delay and seeking revival under 37 C.F.R. §1.137(a).

For the reasons set forth below, the petition as considered under 37 C.F.R. §1.181 is **GRANTED**, and the petition under 37 C.F.R. §1.137(a) is **DISMISSED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the Notice of Allowance/Allowability and Fees Due mailed on 16 June, 2005, with reply due under a non-extendable deadline on or before 16 September, 2005 (supplement mailed on 21 October, 2005);

- the instant application went abandoned by operation of law after midnight 19 September, 2005

- the Office mailed a Notice of Abandonment on 31 March, 2006;

- 19 May, 2006, Petitioner filed the instant petition, alleging non-receipt, providing supporting documentation pursuant to MPEP §711.03(c) and pointed to evidence in the Office record of non-delivery and return of the Notice of Allowance/Allowability and Fees Due to the Office, and Petitioner submitted a reply in the form of fees.

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[3]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[4]

Delays in responding properly raise the question whether delays are unavoidable.[5] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[6] And the Petitioner must be diligent in attending to the matter.[7] Failure to do so does not

---

3 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

4 Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

5 See: *Changes to Patent Practice and Procedure*; *Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

6 See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

7 See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[8]))

Allegations as to the Request to
Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[9]

Petitioner appears to have satisfied the showing requirements described above.

CONCLUSION

Petitioner has satisfied the burdens set forth in Delgar v. Schulyer, and the petition as considered under 37 C.F.R. §1.181 hereby is **granted**; the petition under 37 C.F.R. §1.137(a) is **dismissed as moot** and the fees waived and refunded.

The instant file is released to Publications Branch to be processed into a patent in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

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

8 Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

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

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GARDERE WYNNE SEWELL LLP
SUITE 3400
1000 LOUISIANA
HOUSTON, TX 77002-5007

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OFFICE OF PETITIONS

In re Application of	:	
O. Howard Frazier	:	
Application No. 10/371,439	:	DECISION GRANTING PETITION
Filed: February 21, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 125813-1001	:	

This is a decision on the petition, filed January 17, 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 December 12, 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 3766 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\Jan10\371439.wpd

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

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Alexandria, VA 22313-1450
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PETER JAMITZKV
5712 CONDOR CIRCLE
SAN JOSE CA 95118

COPY MAILED

MAR 23 2009

OFFICE OF PETITIONS

In re Application of :
Jamitzky, et al. :
Application No. 10/371,444 : DECISION
Filed/Deposited: 21 February, 2003 :
Attorney Docket No. 4025-01 :

This is a decision on the petition, filed on 6 March, 2009, for revival of an application abandoned due to unavoidable delay under 37 C.F.R. §1.137(a).

NOTE: *The address on the petition is different than that of record.*

If Petitioner desires to receive future correspondence regarding this application, the appropriate Notice must be submitted.

A courtesy copy of this decision will be mailed to Petitioner.

However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

The petition under 37 C.F.R. §1.137(a) 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 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.137(a)."

This is **not** a final agency action within the meaning of 5 U.S.C.§704.

As to Allegation of
Unavoidable Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(a) are the petition and fee therefor, a reply, a proper showing of unavoidable delay under the regulation, and, where applicable, a terminal disclaimer and fee. (However, it does not appear that a terminal disclaimer and fee are due here.)

Petitioner does not appear to have satisfied the showing requirements (as to unavoidable delay) under the rule, and Petitioner has failed to pay the fee (jurisdictional) and provide the reply to the Office action.

Petitioner is cautioned not to "bury" requests within unrelated papers. Placing a request regarding an address within another paper is not proper. (*See*: 37 C.F.R. §1.4(b) and (c).) A form for Notice of Change of Address is enclosed and, because there is no attorney/agent of record, it must be signed/dated by all co-inventors of record.

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to a non-final Office action (copy enclosed) mailed on 30 June, 2006, with reply due absent extension of time on or before 30 September, 2006.

The record reflects that the non-final Office action was returned on 11 July, 2006, to the Office by the U.S. Postal Service as undeliverable.

The application went abandoned by operation of law after midnight 30 September, 2006.

The Office mailed the Notice of Abandonment on 10 August, 2007

The record reflects that the Notice of Abandonment was returned on 17 August, 2007, to the Office by the U.S. Postal Service as undeliverable.

On 6 March, 2009, Petitioner filed, *inter alia*, a petition (without fee) under 37 C.F.R. §1.137(a) averring unavoidable delay, however, Petitioner not only failed to include a fee for the petition (now due, and at this writing U.S. $270.00—however, Petitioner always should consult the Office website (www.uspto.gov) to determine the then-current fee(s) applicable), but also failed to submit a reply to the non-final Office action and failed to make a showing of unavoidable delay. Failing to Notice the Office in advance of changing address does not constitute unavoidable delay. (*See*: MPEP §711.03(c); MPEP §601.03.) Moreover, the applicable rule, 37 C.F.R. §1.34, Acting in a representative capacity, states:

> When a patent practitioner acting in a representative capacity appears in person or

> signs a paper in practice before the United States Patent and Trademark Office in a patent case, his or her personal appearance or signature shall constitute a representation to the United States Patent and Trademark Office that under the provisions of this subchapter and the law, he or she is authorized to represent the particular party on whose behalf he or she acts. In filing such a paper, the patent practitioner must set forth his or her registration number, his or her name and signature. Further proof of authority to act in a representative capacity may be required.

However, the authority to represent a party before this Office does not extend, *inter alia*, to the authority to change the correspondence address. The MPEP §402 provides in pertinent part:

> In accordance with 37 C.F.R. §1.34, a paper filed by a registered patent attorney or agent in an application in which he or she is not of record must include his or her name and registration number with his or her signature. Acceptance of papers filed in patent applications and reexamination proceedings by registered attorneys and agents upon a representation that the attorney or agent is authorized to act in a representative capacity is for the purpose of facilitating replies on behalf of applicants in patent applications and, further, to obviate the need for filing powers of attorney in individual applications or patents when there has been a change in composition of law firms or corporate patent staffs. Interviews with a registered attorney or agent not of record will, in view of 35 U.S.C. §122, be conducted only on the basis of information and files supplied by the attorney or agent. A person acting in a representative capacity may not sign (A) a power of attorney (37 C.F.R. §1.32(b)(4)), (B) a document granting access to an application (except where an executed oath or declaration has not been filed, and the patent practitioner was named in the papers accompanying the application papers - 37 C.F.R. §1.14(c)), (C) a change of correspondence address (except where an executed oath or declaration has not been filed, and the patent practitioner filed the application - 37 C.F.R. §1.33(a)), (D) a terminal disclaimer (37 C.F.R. 1.321(b)(1)(iv)), or (E) a request for an express abandonment without filing a continuing application (37 C.F.R. 1.138(b)). (Emphasis supplied.)

The MPEP §601.03 further provides:

> Where a correspondence address has been established on filing of the application or changed pursuant to 37 C.F.R. §1.33(a)(1) (prior to the filing of an executed oath or declaration under 37 C.F.R. §1.63 by any of the inventors), that correspondence address remains in effect upon filing of an executed oath or declaration under 37 C.F.R. §1.63 and can only be subsequently changed pursuant to 37 C.F.R. §1.33(a)(2). Under 37 C.F.R. §1.33(a)(2), where an executed oath or declaration under 37 C.F.R. §1.63 has been filed by any of the inventors, the correspondence address may be changed by (A) a patent practitioner of record, (B) an assignee as provided for under 37 C.F.R. §3.71(b), or (C) all of the applicants (37 C.F.R. §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 37 C.F.R. §3.71. See 37 C.F.R. §1.33(a)(2).

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.

All of the inventors of record will have to execute the Notice of Change of Address (copy enclosed).

As to Allegations of
Unavoidable Delay

The requirements under 37 C.F.R. §1.137(a) have not been satisfied as of this writing in that Petitioner failed to submit a petition fee, a reply and the showing of unavoidable delay as required.

CONCLUSION

Accordingly, The petition under 37 C.F.R. §1.137(a) is **dismissed**.

ALTERNATIVE VENUE

Alternatively, Petitioner may wish to file a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b). (See: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c)

A petition to revive on the grounds of unintentional delay must be filed promptly and such petition must be accompanied by the reply, the petition fee, a terminal disclaimer and fee where appropriate and a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional." (The statement is in the form available online.) Petitioner should also refer to the Fee Schedule also online to determine the appropriate fees at the time of any given proposed transaction.

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

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

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

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

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[1]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the cocmentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

CC
PETER JAMITZKY
GOERRESHOF 14B
53347 ALFTER
GERMANY

[1] The regulations at 37 C.F.R. §1.2 provide:

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JJGJR.: 06-06

Paper No: __

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JUL 10 2006

OFFICE OF PETITIONS

JULIAN VAN ERLACH
17-15 HUNT RIDGE DR.
CLIFTON PARK NY 12065

In re Application of :
Van Erlach :
Application No.: 10/371,469 :
Filing Date: 22 February, 2003 :
Attorney Docket No. ER059075613US :

DECISION

This is a decision on the petition filed on 31 March and 5 April, 2006, to revive the instant application under 37 C.F.R. §1.137(a), as having as abandoned due to unavoidable delay, and the petition filed on 9 May, 2006, to revive the application under 37 C.F.R. §1.137(b), as having as abandoned due to unintentional delay.

For the reasons set forth below the petition under 37 C.F.R. §1.137(a) is **DISMISSED**, and the petition under 37 C.F.R. §1.137(b) is **GRANTED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the Restrict requirement mailed on 21 March, 2005, with reply due absent extension of time on or before 21 April, 2005;
- the instant application went abandoned after midnight 21 April, 2005;
- the Office mailed the Notice of Abandonment on 17 March, 2006;
- on 31 March and 5 April, 2006, Petitioner filed the instant petition (with fee) under 37

C.F.R. §1.137(a), averred timely reply via FAX in the form of an Election, and provided, *inter alia*, a copy of a reply averred to have been transmitted, however, the document does not bear a certificate of transmission under 37 C.F.R. §1.8, and Petitioner offers no evidence of receipt by the Office (e.g., for mail transmission a receipt card (see: MPEP §503[1]));

- on 9 May, 2006, Petitioner filed the instant petition (with fee) under 37 C.F.R. §1.137(b), and–the reply already having been submitted–made the statement of unintentional delay–thus, Petitioner appears to have satisfied the requirements under the regulation;

- out of an abundance of caution, Petitioners always are reminded that each request to the Office must be filed as a separate paper (see: 37 C.F.R. §1.4(c)), and those registered to practice *and* all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing

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[1] MPEP §503 provides in pertinent part:

§503 Application Number and Filing Receipt

* * *

A return postcard should be attached to *each* patent application for which a receipt is desired. It is important that the return postcard itemize all of the components of the application. If the postcard does not itemize each of the components of the application, it will not serve as evidence that any component which was not itemized was received by the United States Patent and Trademark Office (USPTO). It should be recognized that the identification of an application by application number does not necessarily signify that the USPTO has accepted the application as complete (37 C.F.R. §1.53(a)).

* * *

RETURN POSTCARD

If a receipt of any item (e.g., paper or fee) filed in the USPTO is desired, it may be obtained by enclosing with the paper a self-addressed postcard specifically identifying the item. The USPTO will stamp the receipt date on the postcard and place it in the outgoing mail. A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

The identifying data on the postcard should be so complete as to clearly identify the item for which receipt is requested. For example, the postcard should identify the applicant's name, application number (if known), confirmation number (if known), filing date, interference number, title of the invention, etc. The postcard should also identify the type of paper being filed, e.g., new application, affidavit, amendment, notice of appeal, appeal brief, drawings, fees, motions, supplemental oath or declaration, petition, etc., and the number of pages being submitted. If a new application is being filed, all parts of the application being submitted should be separately listed on the postcard, e.g., the number of pages of specification (including written description, claims and abstract), number of claims, number of sheets of drawings, number of pages of oath/declaration, number of pages of cover sheet (provisional application).

The postcard receipt will not serve as *prima facie* evidence of receipt of any item which is not adequately itemized on the postcard. For example, merely listing on the postcard "a complete application" or "patent application" will not serve as a proper receipt for each of the required components of an application (e.g., specification (including claims), drawings (if necessary), oath or declaration and the application filing fee) or missing portions (e.g., pages, sheets of drawings) of an application if one of the components or portion of a component is found to be missing by the USPTO. Each separate component should be specifically and properly itemized on the postcard. Furthermore, merely incorporating by reference in the postcard receipt, the items listed in a transmittal letter will not serve as *prima facie* evidence of receipt of those items.

The person receiving the item(s) in the USPTO will check the listing on the postcard against the item(s) being filed to be sure they are properly identified and that all the items listed on the postcard are presently being submitted to the USPTO. If any of the items listed on the postcard are not being submitted to the USPTO, those items will be crossed off and the post-card initialed by the person receiving the items. Upon return of a postcard receipt from the USPTO, the postcard receipt should be promptly reviewed by the person who filed the items to ensure that every item specifically denoted on the postcard was received by the USPTO. If the postcard receipt has been annotated to indicate that a particular item denoted on the postcard was not received by the USPTO, the postcard receipt will not serve as *prima facie* evidence of receipt of that item in the USPTO. (Emphasis supplied.)

duty to disclose.[2]

Petitioner failed to utilize the provisions of, for example, 37 C.F.R. §1.8 (see: http://www.uspto.gov/web/offices/pac/mpep/documents/appxr_1_8.htm#cfr37s1.8) for FAX or First Class Mail transmittal or §1.10 (see: http://www.uspto.gov/web/offices/pac/mpep/documents/appxr_1_10.htm#cfr37s1.10) for Express Mail transmittal, respectively.

Statutes and the Rules of Practice (e.g., 37 C.F.R. §1.8 and §1.10) provide many avenues for action and methods of protection for applicants, patentees, assignees, practitioners and others to accomplish tasks before the Office. However, persons who fail to utilize those

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

Specifically, the regulations at 37 C.F.R. §10.18 provide:

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—

(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and

(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —

(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;

(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.

(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of—

(1) Holding certain facts to have been established;
(2) Returning papers;
(3) Precluding a party from filing a paper, or presenting or contesting an issue;
(4) Imposing a monetary sanction;
(5) Requiring a terminal disclaimer for the period of the delay; or
(6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).
[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

statutes and rules fail to succeed in their tasks or obtain those protections.

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[3]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[4]

Delays in responding properly raise the question whether delays are unavoidable.[5] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[6] And the Petitioner must be diligent in attending to the matter.[7] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[8]))

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[3] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[4] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[5] See: *Changes to Patent Practice and Procedure*; *Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[6] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[7] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[8] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

Allegations as to
Unavoidable Delay

The requirements for a grantable petition under 37 C.F.R. §1.137(b) are the petition and fee, a statement/showing of unintentional delay, a proper reply, and–where appropriate--a terminal disclaimer and fee.

The requirements for relief under the provisions of 37 C.F.R. §1.137(b) are: petition, fee, reply, showing of unavoidable delay, and–where appropriate–a terminal disclaimer and fee.

It appears that Petitioner has not satisfied the showing requirements of the regulation.

Allegations as to
Unintentional Delay

The requirements for a grantable petition under 37 C.F.R. §1.137(b) are the petition and fee, a statement/showing of unintentional delay, a proper reply, and–where appropriate--a terminal disclaimer and fee.

The requirements for relief under the provisions of 37 C.F.R. §1.137(b) are: petition, fee, reply, showing of unintentional delay, and–where appropriate–a terminal disclaimer and fee.

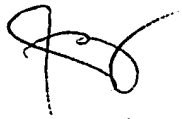
It appears that Petitioner has satisfied the requirements of the regulation.

CONCLUSION

Because Petitioner has not satisfied the regulatory requirements and the petition under 37 C.F.R. §1.137(a) is **dismissed**, however, Petitioner has satisfied the regulatory requirements of 37 C.F.R. §1.137(b), and the petition thereunder is **granted**.

The application is released to Technology Center 2600 for further processing in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.



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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
P.O. BOX 1450
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Paper No. 5

DOUGLAS P. MUELLER
MERCHANT & GOULD P.C.
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

COPY MAILED

JUN 0 3 2003

OFFICE OF PETITIONS

In re Application of :
Masato Kimoto et al :
Application No. 10/371,473 : NOTICE
Filed: February 21, 2003 :
Attorney Docket No. 10877.52US01 :

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

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

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

Inquiries related to this communication should be directed to the Office of Petitions Staff at (703) 305-9285.

This file is being forwarded to Technology Center 3600.

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

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

COZEN AND O'CONNOR
1900 MARKET STREET
PHILADELPHIA PA 19103

COPY MAILED

OCT 27 2003

OFFICE OF PETITIONS

In re Application of :
Singh et al. :
Application No. 10/371,477 :
Filed: February 21, 2003 : Decision on Petition
Attorney Docket Number: :
120277D :

This is a decision on the Response to Notice of Omitted Item(s) in a Nonprovisional Application, filed May 20, 2003, requesting that the above-identified application be accorded a filing date of February 21, 2003, with drawing Figures 1 and 4 as part of the original disclosure.

The petition is dismissed.

The application was deposited on February 21, 2003. However, on May 6, 2003, the Office mailed a " Notice of Omitted Item(s) in a Nonprovisional Application " stating that the application had been accorded a filing date of February 21, 2003, and advising applicants, *inter alia*, that Figures 1 and 4 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. 10/101,028.

The Manual of Patent Examining Procedure ("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.

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 for further processing, with the filing date of February 21, 2003, using the drawing Figures filed on February 21, 2003.

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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PHILADELPHIA PA 19103

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OFFICE OF PETITIONS

In re Application of :
Krishna P. Singh et al. :
Application No. 10/371,477 :
Filed: February 21, 2003 :
Attorney Docket No. HLTC1034-101 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed November 15, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed September 29, 2006, which set a shortened statutory period for reply of three (3) months. Accordingly, by operation of law, the above-identified application became abandoned on December 30, 2006.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the Issue Fee; (2) the petition fee of $770; and (3) the required statement of unintentional delay have been received. Accordingly, the Issue Fee payment is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Carl Friedman at (571) 272-6842.

The application file is being referred to the Office of Patent Publication.

David Bucci
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6-25-08

TO SPE OF : ART UNIT 1649

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/371483 Patent No.: 7122185

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

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

Please Check claims

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

E Yamb

Certificates of Correction Branch

703-308-9390 ext. 117

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

_____

_____

_____

_____

_____ SPE

1649 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

THOMAS H. KAHRI, ESQ.
P. O. BOX 1177
W. FALMOUTH, MA 02574

MAILED

MAY 0 8 2009

OFFICE OF PETITIONS

In re Patent No 6,792,987
Issue Date: September 21, 2004
Application No. 10/371,487
Filed: February 22, 2003
Attorney Docket No. PAKTECH02

ON PETITION

This is a decision on the petition under 37 CFR 1.378(c), filed March 19, 2009, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on September 21, 2008, for failure to pay the three and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

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

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at (571) 272-6735.

The patent file is being forwarded to Files Repository.

Thurman Page
Petitions Examiner
Office of Petitions

cc: RICHARD MONROE
8 KENDRICK RD., UNIT 3
WAREHAM, MA 02571

cc: RICHARD MONROE
P.O. BOX 458 W.
WAREHAM, MA 02576

PTO
MAR 19 2009
TRADEMARK

2009 MAR 23 PM 5:05

IFW Box M

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 a valid OMB control number

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

Docket Number (Optional)

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

RECEIVED
MAR 27 2009
OFFICE OF PETITIONS

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

Patent No. 6,792,987 Application Number 10/371,487

Issue Date Sep. 21,2004 Filing Date Feb. 22,2003

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

03/19/2009 NNGUYEN1 00000036 6792987
01 FC:1599 2130.00 OP

Also complete the following information, if applicable

The above-identified patent

☐ is a reissue of original Patent No. _____ original issue date: _____

original application number _____

original filing date _____

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

filed on _____

CERTIFICATE OF MAILING (37 CFR 1.89(a))

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

Mar. 17, 2009
Date

Signature

Richard Monroe
Typed or Printed Name of Person Signing Certificate

Adjustment date: 05/11/2009 LDIEP1
03/19/2009 NNGUYEN1 00000036 6792987
01 FC:1599 -2130.00 OP

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

05/11/2009 LDIEP1 00000036 6792987
01 FC:2551 490.00 OP
02 FC:1558 1640.00 OP

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

1. SMALL ENTITY

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

2. LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

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

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

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

MAINTENANCE FEE BEING SUBMITTED $ 490.00

4. SURCHARGE

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

SURCHARGE FEE BEING SUBMITTED $ 1640.00

5. MANNER OF PAYMENT

☑ Enclosed is a check for the sum of $ 2,130.00

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

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

6. AUTHORIZATION TO CHARGE ANY FEE DEFICIENCY

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

7. OVERPAYMENT

As to any overpayment made please

OR

☐ Credit to Deposit Account No. _____.

☐ Send refund check

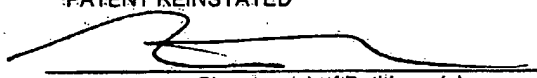
WARNING:

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

8. STATEMENT

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

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



Signature(s) of Petitioner(s)

Mar. 17, 2009
Date

Richard Monroe
Typed or printed name(s)

Registration Number, if applicable

508-291-2023
Telephone Number

Assignee: 8 Kendrick RD. Unit 3 Wareham, MA. 02571 or P.O. Box 458 W. Wareham, MA. 02576
Address

Address

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

ENCLOSURES

☑ Maintenance Fee Payment

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

☐ _____

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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Leopold Presser
Scully, Scott, Murphy & Presser
400 Garden City Plaza
Garden City, NY 11530

MAILED

DEC 16 2004

Director's Office
Group 3700

In re application of
Weon Gyu Shin

Serial Number: 10/371495
Filed: February 20, 2003

NOTICE OF WITHDRAWAL FROM ISSUE UNDER 37 CFR. 1.313

For: **FLOW FORCE COMPENSATING SPOOL VALVE AND HYDRAULIC VALVE, PNEUMATIC VALVE, THREE-WAY CONTROL VALVE, AND FOUR-WAY CONTROL VALVE USING THE SAME**

The above-identified application is withdrawn from issue after payment of the issue fee to reopen prosecution.

The above-identified applicant is hereby withdrawn from issue.

The issue fee is refundable upon written request. If, however, the application is again found allowable, the issue fee can be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due upon written request. This request and any balance due must be received on or before the due date noted in the new Notice of Allowance in order to prevent abandonment of the applicant.

Telephone inquiries should be directed to David Scherbel at (571) 272-4919.

The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

Richard A. Bertsch, Director
Technology Center 3700
(571) 272-3750

rt/ 12/15/04

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ALEXANDRIA, VA 22313-1450
www.uspto.gov

MAR 29 2004

CLIFFORD H. KRAFT
320 ROBIN HILL DR.
NAPERVILLE IL 60540

#9

In re Application of :
Peridsky et al :
Serial No.: 10/371,508 :
Filed: February 2, 2003 :
For: Apparatus and Method for :
Making a Percutaneous Access Port :
Of Variable Size :

DECISION ON PETITION

This is in response to applicants' petition filed June 24, 2003, to make the above-identified application special under the provisions of 37 CFR 1.102(c), based on the age of the applicant.

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, IV. Therefore the petition is **GRANTED**.

The application will be forwarded to the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact John Kittle by letter addressed to the Director, Technology Center 3700/2900, P.O. Box 1450 Alexandria, VA 22313-1450 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

December 3, 2004

Hollander Law Firm
Suite 305
10300 Eaton Place
Fairfax, VA 22030

In re Application of Mihalos et al . Decision on Petition
Application No. 10/371,547
Filed February 21, 2003
For: PRODUCTION OF THIN, IRREGULAR CHIPS WITH SCALLOPED EDGES AND SURFACE BUBBLES

This is a decision on the petitions received July 1, 2004 and July 2, 2004, to withdraw the holding of abandonment in the above-identified application.

The petition is GRANTED.

The above-identified application became abandoned for failure to reply within the meaning of 37 C.D.R. 1.113 in a timely manner to the Notice to File Missing Parts of Application mailed May 8, 2003. Which set a shortened statutory period for reply of two (2) months. Accordingly, the above-identified application became abandoned on June 10, 2003.

On May 14, 2003, Counsel responded to the declaration and fee requirements of the Notice to File Missing Parts of Application. But, Counsel did not respond to the drawing requirement as noted in the Notice to File Missing Parts of Application mailed May 8, 2003.

Unfortunately, the office failed to send Counsel a Notice of Incomplete Reply after receiving the incomplete reply of May 14, 2003 before abandoning the application.

The drawings received July 1, 2004 will be used to complete the above application.

The office regrets any inconvenience this may have caused the client.

Telephone inquiries concerning this matter may be directed to Doshie E. Day at (703) 308-3640.

Doshie E. Day
Program Management Assistant
Office Initial Patent Examination

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

Akerman Senterfitt
P. O. Box 3188
West Palm Beach, FL 33402-3188

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DEC 3 0 2003

OFFICE OF PETITIONS

In re Application of :
Bernd Supper, et al. :
Application No. 10/371,568 : ON PETITION
Filed: February 21, 2003 :
Attorney Docket No. 304-801 :

This is in response to the petition under 37 CFR 1.47(a), filed October 27, 2003.

The petition is granted.

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

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

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

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 306-3475.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Mr. Bernd Supper
Erwin-Schöttle-Strasse 23
D-71229 Leonberg, Germany

COPY MAILED
DEC 3 0 2003
OFFICE OF PETITIONS

In re Application of
Bernd Supper; and Reiner Stäble
Application No. 10/371,568
Filed: February 21, 2003
For: ELECTRIC CIRCUIT FOR A CAPACITIVE SENSOR ELEMENT

Dear Mr. Bernd Supper:

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 Marianne Morgan at (703) 306-3475. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington, DC area).

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

cc: Akerman Senterfitt
P. O. Box 3188
West Palm Beach, FL 33402-3188

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COMMISSIONER FOR PATENTS
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SAND & SEBOLT
AEGIS TOWER, SUITE 1100
4940 MUNSON STREET, NW
CANTON, OH 44718-3615

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JUL 26 2006
OFFICE OF PETITIONS

In re Application of :
Alguera et al. :
Application No. 10/371,569 :
Filed: February 21, 2003 :
Attorney Docket No. :
1489ABPCTUSCONT :

This is a decision in response to the petition under 37 CFR 1.137(b), filed April 20, 2006, to revive the above-identified application.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed September 23, 2004. The Office action set a three (3) month period for reply, and provided for extensions of time under 37 CFR 1.136(a). No reply having been received, the application became abandoned on December 24, 2004, 2005. A Notice of Abandonment was mailed on April 21, 2005.

With the instant petition, Petitioner has filed an Amendment in response to the Office action. Accordingly, the petition is granted.

This application is being forwarded to Technology Center Art Unit 3723 for processing of the Amendment in due course.

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

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DEC -1 2004

In re Application of	:	
George C. Gates, et al.	:	
Serial No. 10/371,585	:	DECISION ON PETITION
Filed: February 21, 2003	:	TO WITHDRAW AS ATTORNEY
For: BAG HOLDER FOR BAG HANDLING MACHINE	:	

By papers filed on August 20, 2004, counsel has petitioned to withdraw as attorney of record in this application.

The petition is GRANTED.

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

Fred H. Zollinger, III
6370 Mt. Pleasant Ave., NW
P.O. Box 2368
North Canton, OH 44720

E. Rollins-Cross, Director
Technology Center 3700

Sand and Sebolt
Aegis Tower, Suite 1100
4940 Munson Street, NW
Canton, OH 44718-3615

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Paper No. 7

Chun-Pok Leung
Townsend and Townsend and Crew, LLP
Two Embarcadero Center, 8th Floor
San Francisco, CA 94111-3834

MAILED

AUG 2 4 2004

Technology Center 2100

In re Application of:
Yoshiaki EGUCHI et al.
Application No. 10/371,595
Filed: February 20, 2003
For: METHOD OF PERFORMING ACTIVE DATA COPYING PROCESSING, AND STORAGE SUBSYSTEM AND STORAGE CONTROL APPARATUS FOR PERFORMING ACTIVE DATA COPYING PROCESSING

DECISION ON PETITION FOR ACCELERATED EXAMINATION UNDER M.P.E.P. §708.02(VIII)

This is a decision on the petition, filed 12 July 2004 requesting the grant of special status based on M.P.E.P. §708.02, Section VIII.

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

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

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

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

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;

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

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

Applicant's combination of submissions meets all the criteria set out above, accordingly, the Petition is **GRANTED**.

The application file is being forwarded to the Examiner of Record for accelerated examination according to the procedures set forth in M.P.E.P. §708.02, Section VIII.

Any inquiry concerning this decision should be directed to Vincent N. Trans whose telephone number is (703) 305-9750.

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
703-305-9750

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VERIZON
PATENT MANAGEMENT GROUP
1515 N COURTHOUSE ROAD
SUITE 500
ARLINGTON VA 22201-2909

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MAY 0 2 2007

OFFICE OF PETITIONS

In re Application of
Mani, et al.
Application No. 10/371,604
Filed: February 21, 2003
Attorney Docket No. 99-804 DIV1

: DECISION ON PETITION

This is a decision on the petition to revive under 37 CFR 1.137(b), filed March 26, 2007.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely pay the issue fee in response to the Notice of Allowance mailed October 3, 2006. This Notice set a statutory period for reply of three (3) months for issue fee transmittal. No issue fee having been received, the application became abandoned on January 4, 2007.

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 the issue fee.

The matter is being forwarded to the Office of Patent Publication for processing into a patent.

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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CHRISTENSEN, O'CONNOR,
JOHNSON, KINDNESS, PLLC
1420 FIFTH AVENUE
SUITE 2800
SEATTLE WA 98101-2347

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NOV 2 8 2008

OFFICE OF PETITIONS

In re Application of :
Carlson, et al. :
Application No. 10/371,612 : DECISION
Filed: 20 February, 2003 :
Attorney Docket No. WEYE120678 :

This is a decision on the petition, filed on 22 July, 2008, considered as a petition under 37 C.F.R. §1.137(b) to revive the application as having been abandoned due to unintentional delay.

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

As to Allegations of
Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee. (However, it does not appear that a terminal disclaimer and fee are due here.)

BACKGROUND

The record reflects that:

Applicant, failed to reply timely and properly to the final Office action mailed on 14 December, 2007, with reply due absent an extension of time on or before 14 March, 2008.

On 14 June, 2008, Petitioner filed, *inter alia*, a request and fee for extension of time, a Notice of Appeal and fee.

The instant application went abandoned by operation of law after midnight 14 August, 2008.

The Office mailed the Notice of Abandonment on 21 February, 2008, and re-mailed it on 4 March, 2008.

On 22 July, 2008, Petitioner filed the instant petition with fee, a reply in the form of an Appeal Brief and fee, and made the statement of unintentional delay.

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

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2]
The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

Unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[3]))

As to Allegations of Unintentional Delay

The requirements under 37 C.F.R. §1.137(b) have been satisfied.

---

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

[2] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[3] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

CONCLUSION

Accordingly, The petition under 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to Technology Center/AU (TC/AU) 1616 to await the Examiner's Answer in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the TC/AU in response to this decision. It is noted that all inquiries with regard to that change in status need be directed to the TC/AU where that change of status must be effected—that does not occur in the Office of Petitions.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[4]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

---

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

§1.2 Business to be transacted in writing.

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

UNITED STATES PATENT and TRADEMARK OFFICE
UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

In re Davies et al.
Serial No.: 10/371,622
Filed: February 21, 2003

DECISION ON PETITION
UNDER *37 CFR 1.48(a)*

For: APPARATUS AND METHOD FOR
TREATING A FLUID

This is a decision on the petition filed November 01, 2004 to correct inventorship, considered under 37 CFR 1.48(a) by adding the name of Jalal Hunain Zia as a joint inventor. Applicant have correctly included a request to correct the inventorship that sets forth the desired inventorship change and, an oath or declaration by the actual inventor(s).
Applicants have failed to submitted, as required under 37 CFR 1.48 (a), a statement from each person being added as an inventor that the error in inventorship occurred without deceptive intention on his or her behalf, the processing fee under CFR 1.17(i), and if assignment has been executed, the written consent of the assignee.

The petition therefore is **DENIED**.

Y-505

Duane S. Smith, Art Unit 1724
Supervisory Patent Examiner
Technology Center 1700

Charles W. Stewart
Shell Oil Company
Legal-Intellectual Property
P.O. Box 2463
Houston, TX 77252-2463

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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FEB 13 2006

OFFICE OF PETITIONS

Steven W. Webb
Law Offices of Steven W. Webb
655 Second Street
Encinitas CA 92024

In re Application of
FRANK D. GRUNDLER
Application No.: 10/371,648
Attorney Docket No.: None

: DECISION on PETITION
:
: UNDER 37 CFR 1.137(b)
:

This is a decision on the petition under 37 CFR 1.137(b), filed November 10, 2005 to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely file a proper reply or bona fide reply to the non-final rejection mailed October 5, 2004. On May 20, 2005, the Notification of Abandonment was mailed to applicant.

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 October 5, 2004 is accepted as having been unintentionally delayed.

The application is being referred to Technology Center AU 3652.

Telephone inquiries concerning this decision should be directed to Cynthia Kratz at (571) 272-3286 or in her absence, the undersigned at (571) 272-3217.

Brian Hearn
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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& Schoenebaum PLC
4500 Westown Parkway
Suite 277
West Des Moines, IA 50266-6717

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JUL 29 2005

OFFICE OF PETITIONS

In re Application of	:	
Cheung Chong Kao	:	DECISION ON
Application No. 10/371,650	:	PETITION
Filed: February 24, 2003	:	
Attorney Docket No. 993535-15	:	
	:	

This is a decision on the PETITION TO REVIVE UNDER 37 CFR 1.137(a) UNAVOIDABLE DELAY filed February 14, 2005, to revive the above-identified application.

The above-identified application became abandoned for failure to timely file a proper reply to the final Office action mailed March 5, 2004. This Office action set a shortened statutory period for reply of three (3) months, with extensions of time obtainable under § 1.136(a). On June 10, 2004 (certificate of mailing dated Monday - June 7, 2004), applicant replied with an amendment. However, the amendment was determined by the examiner not to place the application in condition for allowance (Advisory Action mailed July 20, 2004). Another amendment was filed on August 16, 2004; however, no request for extension of time for response accompanied the amendment. As the amendment was not timely filed, the August 16, 2004 amendment was not considered by the examiner. No proper reply having been timely received and no extensions of time obtained, the application

became abandoned effective June 6, 2004. A Notice of Abandonment was mailed on May 3, 2002.

STATUTES, RULES AND REGULATIONS

35 U.S.C. § 133 provides that the Director may revive an application if the delay in replying to the outstanding Office action is shown to the satisfaction of the Commissioner to have been unavoidable. A grantable petition to revive an unavoidably abandoned application under 37 CFR § 1.137(a) must be accompanied by: (1) the reply required to the outstanding Office action or notice, unless previously filed; (2) the petition fee set forth in 37 CFR § 1.17(l); (3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and (4) any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to § 1.137(d).

The petition includes a proposed reply and the fee under CFR § 1.17(l). The showing of unavoidable delay is at issue.

The burden of showing the cause of the delay is on the person seeking to revive the application. Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. 977, 982 (D.C. Cir. 1982). This burden includes establishing that the entire delay from the due date for the reply until the filing of a grantable petition was unavoidable. Haines v. Quigg, 673 F.Supp. 314, 316-17, 5 U.S.P.Q.2d 1130, 1131-32 (N.D. Ind. 1987). Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the "reasonably prudent person standard" in determining if the delay was unavoidable:

> The word 'unavoidable' ... is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be

> unavoidable, all other conditions of promptness in its rectification being present.

In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 U.S.P.Q. 666, 167-68 (D.D.C. 1963), aff'd, 143 U.S.P.Q. 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith, 671 F.2d at 538, 213 U.S.P.Q. at 982. Nonetheless, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines, 673 F. Supp. at 316-17, 5 U.S.P.Q.2d at 1131-32.

Delay resulting from the lack of knowledge or improper application of the patent statute, rules of practice or the MPEP, however, does not constitute unavoidable delay. See Haines, 673 F. Supp. At 317, 5 U.S.P.Q.2d at 1132; Vincent v. Mossinghoff, 230 U.S.P.Q. 621, 624 (D.D.C. 1985); Smith v. Diamond, 209 U.S.P.Q. 1091 (D.D.C. 1981); Potter v. Dann, 201 U.S.P.Q. 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (1891). (Cf. In re Decision dated February 18, 1969, 162 U.S.P.Q. 383 (Comm'r Pat. 1969; interpretation of rule 7 was not unreasonable; hence, resultant delay in prosecution may be considered unavoidable). Furthermore, a delay caused by an applicant's lack of knowledge or improper application of the patent statute, rules of practice or the MPEP is not rendered "unavoidable" due to: (A) the applicant's reliance upon oral advice from USPTO employees; or (B) the USPTO's failure to advise the applicant of any deficiency in sufficient time to permit the applicant to take corrective action. See In re Sivertz, 227 U.S.P.Q. 255, 256 (Comm'r Pat. 1985).

One who cannot show unavoidable delay is not precluded from obtaining relief by filing a petition pursuant to 37 CFR § 1.137(b) on the basis of unintentional delay. A grantable petition under § 1.137(b) must be accompanied by: (1) the reply required to the outstanding Office action or notice, unless previously filed; (2) the petition fee set forth in 37 CFR §1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was

unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to § 1.137(d).

ANALYSIS

Petitioner has not made an adequate showing of unavoidable delay, within the meaning of § 1.137(a). Petitioner acknowledges that petitioner's counsel had changed law firms and therefore, deposit accounts since the original filing of the application. Moreover, counsel had not submitted a new form since that date. Consequently, a proper authorization to charge a Deposit Account, necessary to make the reply filed August 16, 2004 timely, was not present on filing of the reply.

The period for reply to a final rejection is set by statute to extend for a maximum of six months. As a statutory requirement cannot be waived, in no event will the statutory period for reply expire later than SIX MONTHS from the mailing date of a final rejection. See 35 USC 37 CFR 1.136(a); MPEP 706.07(f).

An extension of time under 37 CFR 1.136(a) requires a petition for an extension and the appropriate fee provided for in 37 CFR 1.17. Where an extension of time is necessary to place an application in condition for allowance (e.g., when an examiner's amendment is necessary after the shortened statutory period for reply has expired), applicant may file the required petition and fee or give authorization to the examiner to make the petition of record and charge a specified fee to a deposit account. Office employees may not accept oral (telephonic) instructions to complete the Credit Card Payment Form or otherwise charge a patent process or trademark process fee (as opposed to information product or service fees) to a credit card. When authorization to make a petition for an extension of time of record is given to the examiner, the authorization must be given before the extended period expires. The authorization must be made of record in an examiner's amendment by indicating the name of the person making the authorization, when the authorization was given, the deposit account number to be charged, the length of the extension requested and the amount of the fee to be charged to the deposit account.

In this instance, petitioner failed to include the proper extension of time fee with the petition. Petitioner was advised of the deficiency in payment. Petitioner states that an authorization to charge a Deposit Account was faxed to the

Office on September 7, 2004. However, the petition does not include persuasive evidence that such a facsimile communication was transmitted. See § 1.8. Thus, petitioner has not shown as alleged that the response was filed within an extended period for reply. Nor has petitioner offered an adequate showing as to why the failure to timely file such a request for extension of time should be considered "unavoidable."

In view thereof, it is concluded that petitioner has not met his burden of showing that the delay was unavoidable.

CONCLUSION

The petition under § 1.137(a) is DISMISSED.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)" or "Renewed Petition under 37 CFR 1.137(b)," as appropriate. Extensions of time under § 1.136(a) are permitted. The time period set in this dismissal of two months for reply with extensions of time obtainable under §1.136(a) applies to requests for reconsideration filed under either §1.137(a) or §1.137(b). Regardless, petitioner should not delay filing a request for reconsideration as petitioner continues to bear the burden of establishing that the entire delay, including the delay from the due date for the reply until the filing of a grantable petition, was unavoidable or unintentional.

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

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

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

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

Telephone inquiries 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
UNITED STATES PATENT AND TRADEMARK OFFICE
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OCT 0 3 2005

OFFICE OF PETITIONS

In re Application of	:	
Cheung Chong Kao	:	DECISION ON
Application No. 10/371,650	:	PETITION
Filed: February 24, 2003	:	
Attorney Docket No. 993535-15	:	
	:	

This is a decision on the RENEWED PETITION TO REVIVE UNDER 37 CFR 1.137(b) UNINTENTIONAL DELAY filed September 23, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely file a proper reply to the final Office action mailed March 5, 2004. By decision mailed July 29, 2005, the initial petition under § 1.137(a) filed February 14, 2005 was dismissed for failure to make an adequate showing of unavoidable delay.

On instant renewed petition, petitioner has submitted the required petition fee as set forth in 1.17(m) and the required statement that the entire delay was unintentional. The required reply was previously submitted on August 16, 2005.

The petition fee of $1500 has been charged to Deposit Account No. 50-3021. The fee of $250 previously paid for consideration of the petition under 1.137(a) remains required and is not applied to the fee for consideration of the petition under 1.137(b). Unless the circumstances warrant the withdrawal of the holding of abandonment (i.e., it is determined that the application is not properly held abandoned), the payment of a petition fee to obtain the revival of an abandoned application is a statutory prerequisite to revival of the abandoned application, and cannot be waived. See MPEP 711.03(c).

The Technology Center has been advised of this decision. The application file is, thereby, forwarded to Technology Center AU 3632 for consideration by the examiner of the amendment filed August 16, 2005.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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APR 22 2005

OFFICE OF PETITIONS

In re Application of
Dorfman
Application No. 10/371,665
Filed: February 21, 2003
Attorney Docket No. 41741/WPC/0359
For: RETRACTORS

: DECISION GRANTING PETITION
: UNDER 37 CFR 1.137(f)

This is a decision on the petition, filed August 20, 2004, to revive the instant nonprovisional application under the unintentional provisions of 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in a foreign country or under a multinational international treaty on February 3, 2004. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

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

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

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

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

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

The instant petition has been found to be in compliance with 37 CFR 1.137(f). Accordingly, the

failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(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 August 4, 2005 accompanies this decision on petition.

Regarding fees, the petition fee of $1,330.00 and a publication fee of $300.00 will be charged to deposit account no. 03-1728.

If pre-grant publication of the application does not occur, applicant may file a request fo refund after the patent issues. See 37 CFR 1.211(e).

Questions relating to the pre-grant publication fee should be directed to the patent publication hotline at (703) 605-4283 or by e-mail to pgpub@uspto.gov.

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

This application is being forwarded to Publications Division.

E. Shirene Willis

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

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

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

STEVE M. MCLARY
RIVERWOOD INTERNATIONAL CORPORATION
SUITE 1400
3350 RIVERWOOD PARKWAY, SE
ATLANTA, GA 30339

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SEP 19 2005

OFFICE OF PETITIONS

In re Application of :
Glen R. Harrelson :
Application No. 10/371,692 : ON PETITION
Filed: February 22, 2003 :
Attorney Docket No. 7194 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 7, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed November 9, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on February 10, 2005.

While petitioner has provided a Power of Attorney and Change of Correspondence Address, the Power of Attorney is not accepted because it does not comply with the requirements of 37 CFR 3.73(b) in that: (1) when an assignee seeks to take action in a matter before the Office, the assignee must establish its ownership of the property to the satisfaction of the Commissioner; (2) ownership is established by submitting to the Office, in the Office file related to the matter in which action is sought to be taken, documentary evidence of a chain of title from the original owner to the assignee (*e.g.,* copy of an executed assignment submitted for recording) or by specifying (*e.g.,* reel and frame number) where such evidence is recorded in the Office.

In accordance with 37 CFR 1.34, the signature of Keats A. Quinalty appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. However, if Mr. Quinalty desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the issue fee; (2) the petition and publication fees; and (3) the required statement of unintentional delay have been received. Accordingly, the issue fee is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

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

Retta Williams

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

cc: Keats A. Quinalty
Womble Carlyle Sandridge & Rice, PLLC
P.O. Box 7037
Atlanta, GA 30357-0037

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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100 PINE STREET
P O BOX 1166
HARRISBURG, PA 17108-1166

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AUG 1 8 2006

OFFICE OF PETITIONS

In re Application of :
Clifford Earl Shamble et al :
Application No. 10/371,743 : DECISION GRANTING PETITION
Filed: February 19, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 129960/11860 :

This is a decision on the petition, filed August 17, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 21, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Petitioner should submit the Request for Continued Examination and the submission (IDS, amendment, etc.) with the petition in order to avoid possible delays in processing the petition to withdraw from issue.

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

This matter is being referred to Technology Center AU 1742 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission), 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 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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GENERAL ELECTRIC COMPANY
GLOBAL RESEARCH
PATENT DOCKET RM. BLDG. K1-4A59
NISKAYUNA, NY 12309

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MAY 27 2005

OFFICE OF PETITIONS

In re Application of	:	
Hua Wang	:	
Application No. 10/371,754	:	ON PETITION
Filed: February 21, 2003	:	
Attorney Docket No. RD-29,605-3	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 22, 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 August 31, 2004, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on December 1, 2004.

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

This matter is being referred to Technology Center AU 1711 for further processing.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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GREGORY SMITH & ASSOCIATES
3900 NEWPARK MALL ROAD, 3RD FLOOR
NEWARK, CA 94560

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SEP 29 2005

OFFICE OF PETITIONS

In re Application of :
Arthur A. Bertolero et al :
Application No. 10/371,756 : ON PETITION
Filed: February 21, 2003 :
Attorney Docket No. 193-028C :

This is a decision on the petition under 37 CFR 1.137(b), filed September 2, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the Issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed May 20, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on August 21, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the issue fee; (2) the petition and publication fees; and (3) the required statement of unintentional delay have been received. Accordingly, the issue fee is accepted as having been unintentionally delayed.

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

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

Irvin Dingle
Petitions Examiner
Office of Petitions

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

MUSERLIAN AND LUCAS AND MERCANTI, LLP
600 THIRD AVENUE
NEW YORK NY 10016

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JUN 2 5 2003

OFFICE OF PETITIONS

In re Application of
Seong, et al.
Application No. 10/371,771 :
Filed: February 21, 2003 : DECISION GRANTING
Attorney Docket No. 428.1028 : PETITION
FOR: METHOD FOR INCREASING :
SOLUBILITY OF TARGET PROTEIN
USING RNA-BINDING PROTEIN AS
FUSION PARTNER

This is a decision on the petition entitled, "PETITION TO NOTICE OF INCOMPLETE NONPROVISIONAL APPLICATION AND PETITION FOR FILING DATE," filed June 6, 2003, requesting, in effect, withdrawal of the Notice of Incomplete Nonprovisional Application (Notice), mailed May 14, 2003. The petition will be treated under 37 CFR 1.53(e).

The application was deposited on February 21, 2003. On May 14, 2003, the Office of Initial Patent Examination mailed a Notice informing petitioners that no filing date had been accorded to the above-identified application because the application as filed did not include drawings.

In response to the Notice, petitioners timely filed the present petition. Petitioners request that the application be accorded a filing date of February 21, 2003 on the basis that 5 sheets of drawing figures were received in the Patent and Trademark Office (PTO) on February 21, 2003. In support, the petition is accompanied by a copy of applicants' itemized postcard receipt showing an Office of Initial Patent Examination generated barcode citing February 21, 2003 as the date of receipt. The postcard lists, *inter alia*, that the filing included 5 sheets of drawings.

The return postcard constitutes *prima facie* evidence that 5 sheets of drawing figures were filed on February 21, 2003. MPEP 503. Accordingly, the request is granted.

Pursuant to petitioners' request, the $130.00 petition fee will be credited to deposit account no. 50-0217.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of February 21, 2003, using the copies of the 5 sheets of drawings submitted with the instant petition. Office records will be corrected to show that 5 sheets of drawings were present on 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

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

PATENT LAW & VENTURE GROUP
2424 S.E. BRISTOL, SUITE 300
NEWPORT BEACH, CA 92660

COPY MAILED
AUG 29 2006
OFFICE OF PETITIONS

In re Application of :
Wesley K. Johnson :
Application No. 10/371,786 : ON PETITION
Filed: February 21, 2003 :
Attorney Docket No. JOHNSON.W-16 :

This is a decision on the petition under 37 CFR 1.137(b), filed by facsimile transmission on July 5, 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 March 28, 2005. A Notice of Abandonment was mailed on October 12, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of $700 for payment of the issue fee; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

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

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

Enclosure: Blank Part B - Fee(s) Transmittal Form (PTOL-85b)

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: Mail **Mail Stop ISSUE FEE**
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450
or Fax (571)-273-2885

INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

Certificate of Mailing or Transmission
I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

(Depositor's name)
(Signature)
(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.

TITLE OF INVENTION:

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE

EXAMINER	ART UNIT	CLASS-SUBCLASS

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.

☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. **Use of a Customer Number is required.**

2. For printing on the patent front page, list

(1) the names of up to 3 registered patent attorneys or agents OR, alternatively,

(2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

1 _____

2 _____

3 _____

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

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

(A) NAME OF ASSIGNEE

(B) RESIDENCE: (CITY and STATE OR COUNTRY)

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

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

☐ Issue Fee

☐ Publication Fee (No small entity discount permitted)

☐ Advance Order - # of Copies _____

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

☐ A check is enclosed.

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

☐ The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number _____ (enclose an extra copy of this form).

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

☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27.

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

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

Authorized Signature _____ Date _____

Typed or printed name _____ Registration No. _____

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5-20-05

TO SPE OF : ART UNIT 1754

SUBJECT : Request for Certificate of Correction on Patent No.: 6846343

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.

Please check Drawings

Thank You For Your Assistance

Certificates of Correction Branch

BEST AVAILABLE COPY

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

1754
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:

DATE : 12/30/07

TO SPE OF : ART UNIT 1614

SUBJECT : Request for Certificate of Correction on Patent No.: 6,987,108

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

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

Thank You For Your Assistance — **Certificates of Correction Branch**

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

Note your decision on the appropriated box.

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

Comments:

SPE: ARDIN H. MARSCHEL SUPERVISORY PATENT EXAMINER — Art Unit 1614

Docket Number: PD01553K US
Application No: 10/371,808
Filing Date: 02/21/2003
Express Mail Label:

PTO/SB/44 (04-04)
Approved for use through 04/30/2007. OMB 0651-0033
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

FILED : 02/21/2003
PATENT NO. : 6,987,108 B2
DATED : 01/17/2006
INVENTOR(S) : UGWU, Sydney O

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

In the Claims:

Claim 6, col. 13, line 25:-Please correct "claim 1" to "claim 5".

claim 6 should be

MAILING ADDRESS OF SENDER:
PALAIYUR S. KALYANARAMAN
Schering-Plough Corporation, Patent Dept, K-6-1, 1990
2000 Galloping Hill Road, Kenilworth NJ 07033-0530

PATENT NO. 6,987,108 B2

No. of additional copies
1

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

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

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

SCULLY SCOTT MURPHY & PRESSER, PC
400 GARDEN CITY PLAZA
SUITE 300
GARDEN CITY NY 11530

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NOV 16 2006
OFFICE OF PETITIONS

In re Application of :
Glover, et al. :
Application No. 10/371,814 : ON PETITION
Filed: February 21, 2003 :
Attorney Docket No. 16054 :
For: USING WEB STRUCTURE FOR CLASSIFYING AND DESCRIBING WEB PAGES

This is a decision on the petition under 37 CFR 1.181, filed October 25, 2006 (certificate of mailing date October 23, 2006) to withdraw the holding of abandonment.

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

The Office contended that the above-identified application became abandoned for failure to timely reply to the January 17, 2006 non-final Office action, which set a three month extendable period for reply. No extensions of time or reply being received, the Office contended that this application became abandoned on April 18, 2006. A Notice of Abandonment was mailed on October 3, 2006.

Petitioners allege that the January 17, 2006 non-final Office action 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]

[1] See notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

Petitioners have submitted a copy of the docket record where the requirement would have been entered had the January 17, 2006 non-final Office action been received. In addition, practitioner referenced the record in the petition and stated that a review of the application's file and docket record for the January 17, 2006 non-final Office action was fruitless.

Petitioners have established non-receipt. The petition is **granted**, the Notice of Abandonment is vacated, and the holding of abandonment is withdrawn.

After the mailing of this decision, the application will be returned to Technology Center A.U. 2178 for the re-mailing of the January 17, 2006 non-final Office action with a new period set for reply.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:0705

DATE : July 25, 2005

TO SPE OF : ART UNIT 2827

SUBJECT : Request for Certificate of Correction on Patent No.: 6,807,105

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-910
Palm location **7590** - Tel. No. 305-8201

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

Thank You For Your Assistance **Certificates of Correction Branch**

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

☒ **Approved** **All** changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

SPE: David Nelms **Art Unit** 2827

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DR. DIAA HOSNY
1356 VIA CORNEL
PALOS VERDES ESTATES CA
90274

COPY MAILED

JUN 21 2007

OFFICE OF PETITIONS

In re Patent No. 7,135,968	:	
Diaa Hosny	:	DECISION ON REQUEST
Issue Date: November 14, 2006	:	FOR RECONSIDERATION OF
Application No. 10/371,828	:	PATENT TERM ADJUSTMENT
Filed: February 20, 2003	:	
Title: DIGITAL ALERTING	:	
SECURITY UNIT	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(D)" filed November 10, 2006. Patentee requests that the Patent Term Adjustment for the above-identified patent be set at 738 days.

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

Patentee is given **TWO (2) MONTHS** from the mailing date of this decision to respond. No extensions of time will be granted under § 1.136.

On November 14, 2006, the above-identified application matured into U.S. Patent No. 7,135,968. The instant request for reconsideration, filed November 10, 2006, was timely filed. The patent issued with a revised Patent Term Adjustment of 588 days.

Patentee asserts that an additional period of adjustment should have been entered for the Office taking in excess of three (3) years to issue the patent.

It is noted that 588 days were entered for Office delay in issuing the patent pursuant to 37 CFR 1.702(a)(1) and (a)(4). This is the correct period of adjustment for the delay. The

instant patent issued 3 years and 267 days after its filing date. However, 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. Further, in considering the overlap, 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). See 35 U.S.C. 154(b) (1)(B); 35 U.S.C. 154(b)(2)(A); and 37 CFR 1.703(f). In this instance, the period of delay of 267 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 588 days attributable to grounds specified in §§ 1.702(a)(1) and (a)(4). Thus, no additional period of adjustment beyond the 588 days was entered.

Furthermore, patentee disputes the reduction for filing, after the mailing of the Notice of Allowance, of patentee's responses to the notification of non-compliant amendment and the Notice of Drawing Inconsistency with Specification, filed February 9, 2006, and May 24, 2006, respectively. Specifically, patentee contends that the Office erroneously mislabeled these responses as amendments after Notice of Allowance. Patentee asserts that these responses were replies to Office actions regarding the formatting of a previously filed amendment and the original drawing descriptions and do not include any new amended items.

Patentee's contention is not well taken. 37 CFR 1.704, provides:

> (c) Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping: . . . .

> (10) Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of:
>
> (i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper; or
>
> (ii) Four months

Furthermore, the OG Notice states that:

> … the Office is publishing this notice to provide guidance in interpreting the provisions of 37 CFR 1.704(c)(10) to clarify that submission of certain papers after a "Notice of Allowance," which do not cause substantial interference and delay in the patent issue process, are not considered a "failure to engage in reasonable efforts" to conclude processing or examination of an application. The following are examples of such papers: (1) Issue Fee Transmittal (PTOL-85B), (2) Power of Attorney, (3) Power to Inspect, (4) Change of Address, (5) Change of Status (small/not small entity status), (6) a response to the examiner's reasons for allowance, and (7) letters related to government interests (e.g., those between NASA and the Office). Therefore, the submission of these papers after a Notice of Allowance will not be considered a "failure to engage in reasonable efforts" to conclude processing or examination of an application and would not result in reduction of a patent term adjustment pursuant to 37 CFR 1.704(c)(10).

Regardless of the way the Office may have captioned the papers filed on February 9, 2006, and May 24, 2006, neither paper is among the examples cited above. There is no dispute that these papers were filed after the mailing of the Notice of Allowance. Accordingly, the reduction of patent term adjustment of 255 days pursuant to § 1.704(c)(10) is correct.

In view thereof, the patent term adjustment of 588 days indicated in the patent is correct.

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

Telephone inquiries specific to this matter should be directed to Christina Tartera Donnell, Senior Petitions Attorney, at (571) 272-3211.

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

DR. DIAA HOSNY
1356 VIA CORNEL
PALOS VERDES ESTATES CA 90274

COPY MAILED

MAR 19 2008

OFFICE OF PETITIONS

In re Patent No. 7,135,968 :
Issued: 11/14/2006 :
Application No. 10/371,828 : ON PETITION
Filed: 02/20/2003 :
Title: DIGITAL ALERTING SECURITY UNIT :

This is in response to the "Response on the decision on request for Patent Term Adjustment," filed August 17, 2007.

On November 10, 2006, patentee filed an "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(D)", requesting that the Patent Term Adjustment for the above-identified patent be set at 738 days. On June 21, 2007, the Office mailed a decision dismissing the request for reconsideration of the patent term adjustment indicated in the patent. The decision set a period of two (2) months from the June 21, 2007 mail date of the decision to respond. No extensions of the period were available under 37 CFR 1.136. On August 17, 2007, patentee filed the present request for reconsideration of the decision dismissing the original petition of November 10, 2006. Patentee timely filed the present request for reconsideration within two (2) months of the June 21, 2007 mail date of the decision dismissing the petition.

The Office cannot accept the present request for reconsideration because patentee failed to comply with the signature requirement set forth in 37 CFR 1.4(d). Accordingly, the petition is dismissed.

37 CFR 1.4(d) provides, in pertinent part:

> (1) Handwritten signature. Each piece of correspondence, except as provided in paragraphs (d)(2), (d)(3), (e) and (f) of this section, filed in an application, patent file, or other proceeding in the Office which requires a person's signature, must:
>
> (i) Be an original, that is, have an original handwritten signature personally signed, in permanent dark ink or its equivalent, by that person; or

(ii) Be a direct or indirect copy, such as a photocopy or facsimile transmission (§ 1.6(d)), of an original. In the event that a copy of the original is filed, the original should be retained as evidence of authenticity. If a question of authenticity arises, the Office may require submission of the original.

(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./); and

...

(iii) The signer's name must be:

(A) Presented in printed or typed form preferably immediately below or adjacent the S-signature, and

(B) Reasonably specific enough so that the identity of the signer can be readily recognized.

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.

As patentee did not properly sign the present request for reconsideration, the Office will not address the petition on the merits. Patentee must file a request for reconsideration of the patent term adjustment signed by an appropriate person in compliance with 37 CFR 1.4(d) 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 to the USPTO via EFS-Web.

Telephone inquiries should be directed to Christina Tartera Donnell, Senior Petitions Attorney, at (571) 272-3211.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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DR. DIAA HOSNY
1356 VIA CORNEL
PALOS VERDES ESTATES CA 90274

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JUL 18 2008

In re Patent No. 7,135,968	:	
Diaa Hosny	:	DECISION ON REQUEST
Issue Date: November 14, 2006	:	FOR RECONSIDERATION OF
Application No. 10/371,828	:	PATENT TERM ADJUSTMENT
Filed: February 20, 2003	:	
Title: DIGITAL ALERTING	:	
SECURITY UNIT	:	

This is a decision on the "Response on the decision on request for Patent Term Adjustment" filed May 1, 2008. Patentee requests reconsideration of the decision dismissing the petition of November 10, 2006, and that the Patent Term Adjustment for the above-identified patent be corrected from 333 days to 588 days.

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

Patentee is given **TWO (2) MONTHS** from the mailing date of this decision to respond. No extensions of time will be granted under 37 CFR 1.136.

On November 14, 2006, the above-identified application matured into U.S. Patent No. 7,135,968. On November 10, 2006, patentee filed an "Application for Patent Term Adjustment Pursuant to 37 CFR 1.705D." The patent issued with a revised Patent Term Adjustment of 333 days.

On June 21, 2007, the Office mailed a decision dismissing the request for reconsideration and setting a two-month period from the mailing date of the decision to respond. On August 17,

2007, patentee submitted a "Response on the decision on request for Patent Term Adjustment;" however, patentee did not comply with the signature requirements of 37 CFR 1.4(d). On March 19, 2008, the Office mailed a communication advising patentee that the Office could not accept the request for reconsideration because it did not include a proper signature. The communication set a non-extendable period of one month to file a request for reconsideration of the patent term signed by an appropriate person in compliance with 37 CFR 1.4(d). On May 1, 2008, patentee filed the present "Response on the decision on request for Patent Term Adjustment."[1]

Patentee disputes the reduction for filing, after the mailing of the notice of allowance, of the amendment filed April 4, 2005, and the responses to the notification of non-compliant amendment and the Notice of Drawing Inconsistency with Specification, filed February 9, 2006, and May 24, 2006, respectively. Specifically, patentee contends that the filing of these papers is not considered a failure to engage in reasonable effort to conclude processing or examination of an application.

Pursuant to 37 CFR 1.704:

> (c) Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping: . . . .
>
> (10) Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or

[1] Patentee states the present request for reconsideration was not filed within the one-month period from the mail date of the communication of March 19, 2008, because he did not receive that communication until April 25, 2008. The Office notes that one-month period to submit a signed request for reconsideration is set by rule. See 37 CFR 1.181. Accordingly, the Office may waive the requirement and accept the request for reconsideration. In view of the circumstances of this case, the Office will accept the present request for reconsideration as timely.

> 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

Furthermore, the OG Notice states that:

> … the Office is publishing this notice to provide guidance in interpreting the provisions of 37 CFR 1.704(c)(10) to clarify that submission of certain papers after a "Notice of Allowance," which do not cause substantial interference and delay in the patent issue process, are not considered a "failure to engage in reasonable efforts" to conclude processing or examination of an application. The following are examples of such papers: (1) Issue Fee Transmittal (PTOL-85B), (2) Power of Attorney, (3) Power to Inspect, (4) Change of Address, (5) Change of Status (small/not small entity status), (6) a response to the examiner's reasons for allowance, and (7) letters related to government interests (e.g., those between NASA and the Office). Therefore, the submission of these papers after a Notice of Allowance will not be considered a "failure to engage in reasonable efforts" to conclude processing or examination of an application and would not result in reduction of a patent term adjustment pursuant to 37 CFR 1.704(c)(10).

Presently, patentee asserts that the filing of the papers on April 4, 2005, February 9, 2006, and May 24, 2006, are responses to the examiner's reasons for allowance or a request to correct an error or omission in the "Notice of Allowance" or "Notice of Allowability" as indicated in example (6) above, and thus, should not result in a reduction under 37 CFR 1.704(c)(10). Specifically, patentee avers: "The filings after notice of allowance, though, erroneously labelled as amendment [] are responses to examiner['s] request to correct an error or omission in the allowed document and is not related

to amendment changes after notice of allowance." *Petition dated 05/01/08. p. 1.* "Looking at the textures and details of these documents and the office communications below will make it evident." Id. at 2.

Patentee's contention is not well taken. Regardless of the way the papers filed April 4, 2005, February 9, 2006, and May 24, 2006, were labelled, none of the papers are among the examples cited above, including example (6). There is no dispute that these papers were filed after the mailing of the notice of allowance. Furthermore, the Office notes that patentee did not dispute the reduction of 120 days for the "Submission of an amendment under 37 CFR 1.312" filed April 4, 2005 in the original petition filed November 10, 2006. Other than those papers identified in the OG Notice and the MPEP, all papers filed after allowance of an application substantially delay the Office's ability to process an application for a patent because the Office does not wait until payment of the issue fee to begin the patent issuance process. As a result, 37 CFR 1.704(c)(10) does not distinguish between papers that are and are not required by the Office.

Patentee's argument that the papers were responses to the examiner's request to correct an error or omission in the allowed document and is not related to amendment changes after notice of allowance is not well taken. The papers have been reviewed and found specifically not to be a response to examiner's reasons for allowance.

Moreover, the paper of May 24, 2006, was filed in response to the Notice of Drawing Inconsistency with Specification mailed on May 1, 2006. There is no exemption in 37 CFR 1.704(c)(10) for papers filed at the request of the examiner (or the Office). The submission of an amendment under 37 CFR 1.312 to correct drawing inconsistencies after the mailing of the notice of allowance is a proper ground for reduction.

In accordance with 37 CFR 1.704(c)(10), the Office properly reduced the period of adjustment set forth in § 1.703 to the extent that the periods did not overlap. Patentee filed three papers after the mailing of the notice of allowance on April 4, 2005, February 9, 2006, and May 24, 2006. The Office took action in response to the filing of these papers on February 2,

2006, October 4, 2006, and June 23, 2006, respectively. Accordingly, the periods of reduction of 120 days, 104 days, and 31 days were properly entered. These period consider that a single maximum reduction under 37 CFR 1.704(c)(10)(ii) is 120 days and that the overlapping days are only counted once. These periods of reduction under 37 CFR 1.704(c)(10) have been carefully reviewed. Thus, the reduction of 255 days pursuant to 37 CFR 1.704(c)(10) is correct.

In view thereof, the patent term adjustment of **333 days** indicated in the patent is correct.

Telephone inquiries specific to this matter 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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IRVINE CA 92614

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OFFICE OF PETITIONS

In re Patent No. 6,863,886 :
Issued: March 8, 2005 :
Application No. 10/371,850 : ON PETITION
Filed: February 21, 2003 :
Attorney Docket Number: ISTA.016.CPC2 :

This is a decision on the petition for correction of assignee's name, filed February 6, 2006. The petition is treated under 37 CFR 3.81(b)[1]

The petition is **GRANTED**.

Petitioner states that the assignee is ISTA Pharmaceuticals, Inc. and that the failure to include the correct assignee name on the Fee(s) Transmittal form PTOL-85(b) was an error on the part of the applicant. Accordingly, petitioner requests that a certificate of correction be issued to reflect the correct 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 is accompanied by a certificate of correction (and fee) as required by 3.81(b). Further, Office assignment records reflect that ISTA Pharmaceuticals, Inc. 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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OFFICE OF PETITIONS

In re Application of :
Ho-Yuan Yu :
Application No. 10/371,856 : ON PETITION
Filed: February 21, 2003 :
Attorney Docket No. LOVO-36 :

This is a decision on the petition, filed January 7, 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 3, 2004, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2838 for further processing of the request for continued examination under 37 CFR 1.114.

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

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

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OFFICE OF PETITIONS

In re Application of
Andrew John Merriam
Application No. 10/371,860
Filed: February 21, 2003
Title: HIGH EFFICIENCY STOKES-SEEDING DUAL-CELL RAMAN SHIFTER

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

This is a decision on the petition under 37 CFR §1.137(b)[1], filed June 21, 2005, to revive the above-identified application.

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed February 7, 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 May 8, 2005.

With the petition, Petitioner has submitted the petition and issue fees, as well as the proper statement of unintentional delay. Petitioner has met all requirements for a grantable petition under 37 C.F.R. §1.137(b).

As such, the petition is **GRANTED**.

The Change of Correspondence Address has been entered and made of record.

---

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

2 See MPEP §710.02(e).

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

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

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OFFICE OF PETITIONS

In re Application of :
Petro Estakhri :
Application No. 10/371,861 : DECISION ON PETITION
Filed: February 21, 2003 : TO MAKE SPECIAL
Attorney Docket No. LEXA-01201 : 37 CFR 1.102(d)

This is a decision on the petition under 37 CFR §1.102(d), filed April 16, 2004,[1] to make the above-identified application special.

The petition requests that the above-identified application be made special under the accelerated examination procedure set forth in M.P.E.P. § 708.02, Section II: Infringement.

The petition is **GRANTED.**

A grantable petition to make an application special under 37 CFR §1.102(d) and MPEP §708.02, Section II: Infringement, must be accompanied by the required fee pursuant to 37 CFR 1.17(h) and a statement by the applicant, assignee, or attorney/agent registered to practice before the office alleging:

> (A) That there is an infringing device or product actually on the market or method in use;
>
> (B) That a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and
>
> (C) That he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art.

[1] The instant petition was only recently brought to the attention of the deciding official. The Office sincerely apologizes for the delay in replying to the instant petition and inconvenience caused petitioner by this delay.

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

The petition complies with all the above stated requirements. Accordingly, the above-identified application has been accorded "special" status

Telephone inquires concerning this decision should be directed to Wan Laymon at (571) 272-3220.

All other inquires concerning either the examination or status of the application should be directed to the Technology Center at (571) 272-2600.

This matter is being referred to the Technology Center Art Unit 2636 for expedited prosecution.

Amelia Au
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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OFFICE OF PETITIONS

In re Application of :
Yury Oshmyansky et al. :
Application No. 10/371,862 : ON PETITION
Filed: February 21, 2003 :
Attorney Docket No. TEGL-01243US0 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 29, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of May 3, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is August 4, 2007.

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

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.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571) 272-4584.

This application is being referred to Technology Center AU 1795 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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CINCINNATI, OH 45224

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OFFICE OF PETITIONS

In re Application of :
Philip Frank Souter et al :
Application No. 10/371,864 : ON PETITION
Filed: February 21, 2003 :
Attorney Docket No. 9170 :

This is a decision on the petition, filed August 30, 2005, which is being treated under the unintentional provisions of 37 CFR 1.137(b) to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed February 28, 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 timely obtained. A Notice of Abandonment was mailed on September 29, 2005.

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

The instant petition lacks item (3). Accordingly, the statement

required by 37 CFR 1.137(b)(3) must be submitted to revive this application.

Pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the $1,020 extension of time submitted with the petition on August 30, 2005 was subsequent to the maximum period obtainable for reply, the fee will be refunded in due course.

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

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

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

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:
Philip Frank Souter et al	: DECISION ON PETITION
Application No. 10/371,864	: UNDER 37 CFR 1.137(b)
Filed: February 21, 2003	:
Attorney Docket No. 9170	:

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

The petition is **granted**.

This application became abandoned for failure to timely reply in a timely manner to the non-final Office action mailed February 28, 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 timely obtained. Accordingly, the date of abandonment of this application is May 29, 2005. A Notice of Abandonment was mailed on September 29, 2005.

The initial petition of August 30, 2005 was dismissed in a decision mailed March 9, 2006 because it lacked a statement of unintentional delay or, for that matter, any statement that could be construed as the statement required by 37 CFR 1.137(b)(3). The present renewed petition submits that the submission of a good faith effort to timely reply to the outstanding Office action of February 28, 2005 and the subsequent prompt filing of a petition to revive demonstrates that the "entire corresponding delay was unintentional." However, while the record demonstrates petitioner's prompt attempts to comply, the rule still requires a statement in compliance with 37 CFR 1.137(b)(3). While the renewed petition still lacks the statement required by 37 CFR 1.137(b)(3), the statements presented will be construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must promptly notify the Office if this is **not** a correct interpretation of the statement appearing in the petition.

The petition satisfies the requirements for a grantable petition in that a reply to the February 28, 2005 non-final Office action, the petition fee of $1,500, and an adequate statement of unintentional delay have been submitted. Accordingly, the reply to the non-final Office action of February 28, 2005 is accepted as having been unintentionally delayed.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 1714 for appropriate action in the normal course of business on the reply received August 30, 2005 to Office action of February 28, 2005.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
Edwin C. Iliff :
Application No. 10/371,873 : ON PETITION
Filed: February 20, 2003 :
Attorney Docket No. ILIFF.002DV4 :

This is a decision on the petition, filed October 26, 2006, and supplemented on October 27, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on September 21, 2005, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 3736 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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

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LOS ANGELES CA 90025-1026

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OFFICE OF PETITIONS

In re Patent No. 6,870,325 :
Issue Date: March 22, 2005 :
Application No. **10/371,878** : ON PETITION
Filed: February 21, 2003 :
Attorney Docket No. 006422.P003 :

This is a decision on the petition filed January 3, 2006, under 37 CFR 1.182 to correct the front page of the above-identified patent to include priority data and to issue a certificate of correction pursuant to 37 CFR 1.322. The petition is being treated under 37 CFR 1.181.

The petition under 37 CFR 1.181 is **DISMISSED**.
The request for a certificate of correction is **DISMISSED**.

With the instant petition, the petitioners argue that a priority claim to UK Application No. UK0204212.5, filed February 22, 2002, was made in a preliminary amendment, with the filing of the instant application. Petitioners further argue that while a certified copy of the priority foreign application was provided on July 1, 2003, that the official filing receipt and the published version of the application reflected the priority claim, the patent issued without the priority data.

A request for a certificate of correction filed October 13, 2005 was denied October 31, 2005 because technical requirements under 35 USC 119 had not been met.

Specifically, the Notice of Allowability mailed November 8, 2004 acknowledged that while a claim for foreign priority under 35 USC 119 had been made "none of the certified copies of the priority documents had been received".

The instant petition does not include proof of filing of the certified priority documents purportedly filed in this matter and thus the claim for priority hasn't been properly made. In view thereof, the issuance of a certificate of correction would not be appropriate.

If petitioner cannot provide evidence of the filing of the priority document on the alleged date, petitioner should note that a reissue was granted in Brenner v. State of Israel, 400 F.2d 789; 158 USPQ 584 (D.C. Cir. 1968), where the only ground urged was applicant's

failure to file the certified copy of the original foreign application under 35 U.S.C. § 119 before the patent was granted. Under the circumstances of this case, petitioner may wish to seek relief from his predicament by way of reissue under 35 U.S.C. § 251.Id. See also 65 F.R. 57024 (Sept. 2000) MPEP §§ 201.16, 1402.

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

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

Any questions concerning this matter may be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272- 3212 .

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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STEPHEN M. DE KLERK
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SEVENTH FLOOR
12400 WILSHIRE BOULEVARD
LOS ANGELES CA 90025-1026

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APR 10 2007

OFFICE OF PETITIONS

In re Patent No. 6,870,325
Issue Date: March 22, 2005
Application No. **10/371,878**
Filed: February 21, 2005
Attorney Docket No. 006422.P003

ON PETITION

This is a decision on the petition filed June 12, 2006, under 37 CFR 1.182 to correct the front page of the above-identified patent to include priority data and to issue a certificate of correction pursuant to 37 CFR 1.322. The petition is being treated under 37 CFR 1.181.

The petition under 37 CFR 1.181 is **GRANTED**.
The request for a certificate of correction is **GRANTED**.

With the instant petition, the petitioners have provided a copy of the preliminary amendment filed February 21, 2003 claiming priority to Great Britain/United Kingdom Patent Application No. 0204212.5 filed February 22, 2002, the certified foreign patent application filed July 3, 2002 and the stamped post card receipt, date stamped July 3, 2003 by the USPTO. Additionally, copies of the published application and the filing receipt as proof of the proper priority claim having been made. By all accounts, a review of the materials listed above reveal that the certified copy of Great Britain/United Kingdom Patent Application No. 0204212.5 was filed on July 3, 2003 and thus the claim for priority properly made prior to payment of the issue fee.

In view of the above, a certificate of correction should be issued to correct the mistake in the patent regarding the foreign application priority data, incurred through the fault of the Office. No fees are due and none will be charged.

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

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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WORKMAN NYDEGGER (F/K/A WORKMAN NYDEGGER & SEELEY)
60 EAST SOUTH TEMPLE
1000 EAGLE GATE TOWER
SALT LAKE CITY, UT 84111

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MAR 23 2004

OFFICE OF PETITIONS

In re Application of
Mogran Lynch, et al.
Application No. 10/371,895
Filed: February 21, 2003
Attorney Docket No. 15768.1

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed March 12, 2004, under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

The instant nonprovisional application is the subject of an application filed in an eighteen month publication country on February 21, 2003. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

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

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

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

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

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of August 26, 2004 accompanies this decision on petition.

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

This application is being forwarded to Technology Center Art Unit 3629 for examination in due course.

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

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

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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Paper No. 2

MILLIPORE CORPORATION
290 CONCORD ROAD
BILLERICA, MA 01821

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JUN 16 2003
OFFICE OF PETITIONS

In re Provisional Application of
Purdom et al.
Application No. 60/361,540
Filed: March 4, 2002
Attorney Docket No. MCA-587 PR

ON PETITION

RECEIVED
JUL 03 2003
TC 1700

This decision concerns the April 28, 2003 petition under 37 CFR 1.10(c).

The petition is **GRANTED**.

The petition requests a filing date of March 4, 2002 rather than the presently accorded filing date of February 4, 2002, on the basis that the application was deposited on March 4, 2002 in the U.S. Postal Service (USPS) "Express Mail Post Office to Addressee" service pursuant to the requirements of 37 CFR 1.10.

The petition is accompanied by a copy of the "Express Mail" mailing label bearing the number "EL634002554US" and containing a USPS "date-in" of March 4, 2002. The same mailing label number also appears on the provisional application cover sheet which itemizes the application papers being mailed on that date. In addition, the Office has verified through the official USPS database available to the PTO that the package mailed under this label had been accepted by the USPS on March 4, 2002 at 8:27 am. The petition is thus granted.

No petition fee is owed.

The application file is being forwarded to the Office of Initial Patent Examination for correcting the filing date to March 4, 2002, and for mailing a corrected filing receipt reflecting that filing date. Thereafter, the file will be returned to Files Repository.

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

RC Tang
Petitions Attorney
Office of Petitions

Docketed By: 6/24/03 MC
Due Date:
Reminder(s):
Action Due:
In Database:

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 7 2003

UR
PAPER NO. 5

In re Application of
Frederick A. Hekman et al.
Serial Number: 10/371,940
Filed: February 21, 2003
For: DUAL MODE CARPET CLEANING APPARATUS UTILIZING AN EXTRACTION DEVICE AND A SOI :L TRANSFER CLEANING MEDIUM

PETITION UNDER
M.P.E.P.708.02,V

This is in response to the petition filed, February 21, 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.**

JMStone

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

John F. Klos, Esq.
Fulbright & Jaworski L.L.P.
225 South Sixth Street, Suite 4850
Minneapolis, MN 55402-4320

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 4

BRINKS HOFER GILSON & LIONE
PO BOX 10395
CHICAGO, IL 60611

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DEC 2 4 2003

OFFICE OF PETITIONS

In re Application of:	:	
Hennecke et al.	:	DECISION REFUSING
Application No. 10/371,982	:	STATUS
Filed: February 21, 2003	:	UNDER 37 CFR 1.47(a)
Title of Invention:	:	
SPEECH RECOGNITION SYSTEM	:	

This is in response to a petition under 37 CFR 1.47(a), filed October 6, 2003, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor.

The petition is **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).

Background

The above-identified application was filed on February 21, 2003, without an oath or declaration. This Office mailed a Notice to File Missing Parts of Nonprovisional Application (hereinafter "Notice") on April 2, 2003, requiring, *inter alia*, a properly signed oath or declaration and a late filing fee, oath or declaration and surcharge.

The Instant Petition

In response to the Notice, Applicant files the instant petition wherein Applicant avers that the nonsigning inventor is cannot be located. Specifically, the petition avers that Dr. Timothy

Bast forwarded a copy of the Declaration and Assignment to the nonsigning inventor by registered mail. *Petition* at p.2. The petition further provides that,

> [i]n Germany, when a package is sent by registered mail, the post office attempts to deliver the package to the person atr the indicated address. If the person no longer resides at the indicated address, the German post office then further attempts to locate the person. If the person cannot be located after trying to find the person at the listed address and any subsequent forwarding addresses, the package is returned as undeliverable.

Id.

Applicable Law

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) and (4) as set forth above.

Analysis

As to item (1), if an inventor is unavailable (cannot be reached), while it is not required that the application be mailed, Petitioner must establish the exercise of diligent effort in trying to find or reach the nonsigning inventor(s). 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 to locate the inventor. (Emphasis supplied). See, MPEP § 409.03(d). Here, Petitioner provides a statement of the procedure followed by the German post office. However, the statement of facts must be made by a person with first-hand

knowledge of the exact facts which are relied upon to establish diligent effort. A general statement as to the procedures

followed by the German Post Office when registered mail is sent is insufficient to establish that, in this instance, diligent effort was exercised to locate the nonsigning inventor. A statement of facts by a person at the German Post Office that fully describes the exact facts which are relied on to establish that a *diligent effort* was made to locate the inventor should be filed. Alternatively, and at the very least, an Internet search, or a search of telephone directories should be undertaken of the regions where it is suspected the non-signing inventor may reside. Copies of the results of such searches must be referred to in any renewed petition. It is important that the forthcoming communication contain statements of fact as opposed to conclusions.

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: 2201 South Clark Place
Customer Window
Crystal Plaza Two, Lobby Room 1B03
Arlington, VA 22202

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
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Paper No. 6

BRINKS HOFER GILSON & LIONE
PO BOX 10395
CHICAGO, IL 60611

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MAR 17 2004

OFFICE OF PETITIONS

In re Application of: :
Hennecke et al. : DECISION GRANTING
Application No. 10/371,982 : STATUS
Filed: February 21, 2003 : UNDER 37 CFR 1.47(a)
Title of Invention: :
SPEECH RECOGNITION SYSTEM :

This is in response to a Request for Reconsideration of Petition under 37 CFR 1.47(a), filed February 26, 2004 (Certificate of Mailing dated February 23, 2004), 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, Richard Reng, could not be found orreached after diligent effort.

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

The application file is being returned to the Office of Initial Patent Examination for continued processing.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

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MAR - 3 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

DIANA Y. FU
VAN PELT & YI, L.L.P.
10050 NORTH FOOTHILL BLVD.
SUITE 200
CUPERTINO, CALIFORNIA 95014

In re Application of: Wilson, et al.
Application No. 10/371,987
Filed: February 20, 2003
For: USING DISTINGUISHING PROPERTIES TO CLASSIFY MESSAGES

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

This is a response to the petition filed March 3, 2004, under 37 C.F.R. §1.102(c) and M.P.E.P. §708.02 (IV): Accelerated Examination, to make the above-identified application special.

The Petition is **GRANTED**.

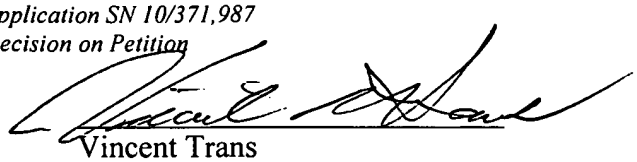
M.P.E.P. §708.02, Section IV which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

> An 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 with such a petition. See 37 CFR 1.102(c).

In support of the petition, Applicants have provided a birth certificate and U. S. Citizen Certificate.

Petition to Make Special is **GRANTED** since all of the requirements for special status under M.P.E.P. §708.02, Section IV has 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 IV. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. §1309.



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

HMJ: 12/06/04

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Truong Dinh
Dinh & Associates
2506 Ash Street
Palo Alto CA 94306

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APR 02 2009

OFFICE OF PETITIONS

In re Application of :
Ming Zhang, et al. :
Application No. 10/371,991 : DECISION ON PETITION
Filed: February 21, 2003 :
Attorney Docket No. 122.6.1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 16, 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 application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, January 23, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on April 24, 2006.

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

37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. *See* MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item (3).

There are three periods to be considered during the evaluation of a petition under 37 CFR 1.137(b):

(1) the delay in reply that originally resulted in the abandonment;

(2) the delay in filing an initial petition pursuant to 37 CFR 1.137(b) to revive the application; and

(3) the delay in filing a grantable petition pursuant to 37 CFR 1.137(b) to revive the application.

Currently, the delay has not been shown to the satisfaction of the Director to be unintentional for periods (1) and (2).

As to Period (1):

The patent statute at 35 U.S.C. § 41(a)(7) authorizes the Director to revive an "unintentionally abandoned application." The legislative history of Public Law 97-247 reveals that the purpose of 35 U.S.C. § 41(a)(7) is to permit the Office to have more discretion than in 35 U.S.C. §§ 133 or 151 to revive abandoned applications in appropriate circumstances, but places a limit on this discretion, stating that "[u]nder this section a petition accompanied by either a fee of $500 or a fee of $50 **would not be granted where the abandonment** or the failure to pay the fee for issuing the patent **was intentional** as opposed to being unintentional or unavoidable." [emphasis added]. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6-7 (1982), *reprinted in* 1982 U.S.C.C.A.N. 770-71. The revival of an intentionally abandoned application is antithetical to the meaning and intent of the statute and regulation.

35 U.S.C. § 41(a)(7) authorizes the Director to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 CFR 1.137(b)(3) provides that a petition under 37 CFR 1.137(b) must be accompanied by a statement that the delay was unintentional, but provides that "[t]he Commissioner may require additional information where there is a question whether the delay was unintentional." Where, as here, there is a question whether the initial delay was unintentional, the petitioner must meet the

burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). *See* In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989); 37 CFR 1.137(b). Here, in view of the inordinate delay (almost 3 years) in resuming prosecution, there is a question whether the entire delay was unintentional. Petitioner should note that the issue is not whether some of the delay was unintentional by any party; rather, the issue is whether the entire delay has been shown to the satisfaction of the Director to be unintentional.

The question under 37 CFR 1.137(b) for period (1) is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unintentional. Accordingly, any renewed petition must clearly identify the party having the right to reply to avoid abandonment on April 24, 2006. That party, in turn must explain what effort(s) was made to further reply to the outstanding Office action and, further, why no reply was filed. If no effort was made to further reply, then that party must explain why the delay in this application does not result from a deliberate course of action (or inaction). Likewise, as Truong Dinh was counsel of record at the time of abandonment, Truong Dinh should explain why this application became abandoned while it was under their control and what efforts Truong Dinh made to further reply of itself and with whom this matter was discussed outside of Dinh & Associates. Copies of any correspondence relating to the filing, or to not filing a further reply to the outstanding Office action are required from responsible person(s), Dinh & Associates and whoever else was involved with this application at the time of abandonment. Statements are required from any and all persons then at Dinh & Associates, and the responsible person(s) having firsthand knowledge of the circumstances surrounding the lack of a reply to the outstanding Office action. As the courts have made clear, it is pointless for the USPTO to revive a long abandoned application without an adequate showing that the delay did not result from a deliberate course of action. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005); Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996) (unpublished) (patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

As to Period (2):

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

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

As noted in MPEP 711.03(c)(II), subsection D, in instances in which such petition was not filed within 1 year of the date of abandonment of the application, applicants should include:

> (A) the date that the applicant first became aware of the abandonment of the application; and

(B) a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant.

In either instance, applicant's failure to carry the burden of proof to establish that the "entire" delay was "unavoidable" or "unintentional" may lead to the denial of a petition under 37 CFR 1.137(b), regardless of the circumstances that originally resulted in the abandonment of the application. *See also* New York University v. Autodesk, 2007 U.S. DIST LEXIS, U.S.District LEXIS 50832, *10 -*12 (S.D.N.Y. 2007)(protracted delay in seeking revival undercuts assertion of unintentional delay).

Any renewed petition may be addressed as follows:

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

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

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

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

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

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

Chris Bottorff
Petitions Examiner
Office of Petitions

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THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
600 GALLERIA PARKWAY, S.E.
STE 1500
ATLANTA GA 30339-5994

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AUG 18 2009

OFFICE OF PETITIONS

In re Application of :
Ming Zhang, et al. :
Application No. 10/371,991 : DECISION ON PETITION
Filed: February 21, 2003 :
Attorney Docket No. 122.6.1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 13, 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 application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, January 23, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on April 24, 2006. The Notice of Abandonment was mailed February 8, 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 inordinate delay (almost 3 years) in resuming prosecution, there is a question whether the entire delay was unintentional. Petitioner should note that the issue is not whether some of the delay was unintentional by any party; rather, the issue is whether the entire delay has been shown to the satisfaction of the Director to be unintentional.

The question under 37 CFR 1.137(b) for period (1) is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unintentional. Accordingly, any renewed petition must clearly identify the party having the right to reply to avoid abandonment on April 24, 2006. That party, in turn must explain what effort(s) was made to further reply to the outstanding Office action and, further, why no reply was filed. If no effort was made to further reply, then that party must explain why the delay in this application does not result from a deliberate course of action (or inaction). Likewise, as Truong Dinh was counsel of record at the time of abandonment, Truong Dinh should explain why this application became abandoned while it was under their control and what efforts Truong Dinh made to further reply of itself and with whom this matter was discussed outside of Dinh & Associates. Copies of any correspondence relating to the filing, or to not filing a further reply to the outstanding Office action are required from responsible person(s), Dinh & Associates and whoever else was involved with this application at the time of abandonment. Statements are required from any and all persons then at Dinh & Associates, and the responsible person(s) having firsthand knowledge of the circumstances surrounding the lack of a reply to the outstanding Office action. As the courts have made clear, it is pointless for the USPTO to revive a long abandoned application without an adequate showing that the delay did not result from a deliberate course of action. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005); Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996) (unpublished) (patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

As to Period (2):

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

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

As noted in MPEP 711.03(c)(II), subsection D, in instances in which such petition was not filed within 1 year of the date of abandonment of the application, applicants should include:

> (A) the date that the applicant first became aware of the abandonment of the application; and

(B) a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant.

In either instance, applicant's failure to carry the burden of proof to establish that the "entire" delay was "unavoidable" or "unintentional" may lead to the denial of a petition under 37 CFR 1.137(b), regardless of the circumstances that originally resulted in the abandonment of the application. *See also* New York University v. Autodesk, 2007 U.S. DIST LEXIS, U.S.District LEXIS 50832, *10 -*12 (S.D.N.Y. 2007)(protracted delay in seeking revival undercuts assertion of unintentional delay).

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.

Any renewed petition may be addressed as follows:

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

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

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

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

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

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

Terri Williams
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
600 GALLERIA PARKWAY, S.E.
STE 1500
ATLANTA GA 30339-5994

MAILED

OCT 16 2009

OFFICE OF PETITIONS

In re Application of	:	
Ming Zhang, et al.	:	
Application No. 10/371,991	:	ON PETITION
Filed: February 21, 2003	:	
Attorney Docket No. 250609-1990	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed September 28, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed January 23, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on April 24, 2006. The Notice of Abandonment was mailed February 8, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment (previously filed); (2) the petition fee of $810; and (3) an adequate statement of unintentional delay.

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

The application file is being referred to Technology Center AU 2618 for appropriate action on the previously filed amendment.

Terri Johnson
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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RICHARD BIAUD
5, PLACE GEORGES BRASSENS
78260 ACHERES
FRANCE

AIRMAIL

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JAN 16 2004

OFFICE OF PETITIONS

In re Application of
Alain Vincent and Richard Biaud
Application No. 10/371,999
Filed: February 21, 2003
For: CASSETTE FOR COILING AND HOLDING SPLICES BETWEEN CONDUCTORS, AND AN ORGANIZER FOR A PLURALITY OF SAID CASSETTES

Dear Mr. Biaud:

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:
SOFER & HAROUN
317 MADISON AVENUE, SUITE 910
NEW YORK, NY 10017

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 6

SOFER & HAROUN
317 MADISON AVENUE
SUITE 910
NEW YORK, NY 10017

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JAN 16 2004

OFFICE OF PETITIONS

In re Application of :
Alain Vincent et al :
Application No. 10/371,999 : DECISION GRANTING STATUS
Filed: February 21, 2003 : UNDER 37 CFR 1.47(A)
For: CASSETTE FOR COILING AND :
HOLDING SPLICES BETWEEN CONDUCTORS, :
AND AN ORGANIZER FOR A PLURALITY OF :
SAID CASSETTES :

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

The petition is granted.

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

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

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

This application is being forwarded to Technology Center AU 2874 for examination in due course.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 4

CARLSON, GASKEY & OLDS, P.C.
400 WEST MAPLE ROAD
SUITE 350
BIRMINGHAM, MI 48009

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APR 2 8 2003

OFFICE OF PETITIONS

In re Application of
Axakov
Application No. 10/372,007
Filed: February 21, 2003
Attorney Docket No. 60449-060

ON PETITION

This is a decision on the petition filed March 31, 2003, to accord the above-identified application a filing date of February 21, 2003, instead of February 22, 2003.

The petition is **granted**.

37 CFR 1.10(c) states,

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that there is a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and
>
> (3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

All of the above requirements have been met. Therefore, the application will be accorded a filing date of February 21, 2003.

The file is now being forwarded to the Office of Initial Patent Examination to accord the application a filing date of February 21, 2003.

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

Liana Chase
Program Assistant
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. 8

Michael Bernadicou
Blakely Sokoloff Taylor & Zafman
12400 Wilshire Boulevard, 7th Floor
Los Angeles, CA 90025

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MAR 2 2 2004

OFFICE OF PETITIONS

In re Application of :
Branko Bem et al. :
Application No. 10/372,028 : ON PETITION
Filed: February 20, 2003 :
Attorney Docket No. 8003-432 :

This is a decision on the petition under 37 CFR 1.137(b), filed February 24, 2004, to revive the above-identified application.

The petition is Granted.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Non-Provisional Application mailed April 2, 2003. The Notice set a period for reply of Two (2) months. No extensions of time under the provisions of 37 CFR 1.136 have been obtained. Accordingly, the application became abandoned on June 3, 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

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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GRAYBEAL, JACKSON, HALEY LLP
155 - 108TH AVENUE NE
SUITE 350
BELLEVUE WA 98004-5901

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JAN 19 2007

OFFICE OF PETITIONS

In re Application of	:	
Getzewich et al.	:	
Application No. 10/372,037	:	ON PETITION
Filed: February 20, 2003	:	
Attorney Docket No. 1467-66-7	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed October 30, 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 3700 for further examination on the merits.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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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 :
Schumarry Chao :
Application No. 10/372,052 : DECISION GRANTING PETITION
Filed: February 21, 2003 :
Attorney Docket No: BMIMP 1026805 :

This is a decision on the petition, filed January 9, 2006, under 37 CFR 1.137(f) which is treated as a petition to revive the above-identified nonprovisional application under the unintentional provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

Petitioner states that the present nonprovisional application is the subject of a foreign or international application filed on October 17, 2003. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

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

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

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

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

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

The present petition has been found to be in compliance with 37 CFR 1.137(f).

Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(I) has been rescinded. The projected publication date is August 10, 2006 and a copy of the communication regarding rescission is included herein.

The petition fee in the amount of $1500.00 has been applied to the finance records for this application.

This matter is being referred to Technology Center 3626 for further examination in due course.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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EDWARDS ANGELL PALMER & DODGE LLP
P.O. BOX 55874
BOSTON, MA 02205

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NOV 0 3 2009

OFFICE OF PETITIONS

In re Patent No. 7,414,647
Issue Date: August 19, 2008
Application No. 10/372,053
Filed: February 20, 2003
Attorney Docket No. 58,613 (70840)

ON PETITION
ON PETITION

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

The request is **GRANTED**.

The petition is not signed by an attorney of record. Nevertheless, in accordance with 37 CFR 1.34, the signature of Mr. David A. Tucker appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts.

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

Chris Bottorff
Petitions Examiner
Office of Petitions

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

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Paper No.
06/01/2005

Jeanette S. Harms
BEVER, HOFFMAN & HARMS, LLP
1432 CONCANNON BLVD
BLDG G
LIVERMORE, CA 94550

Appl No.: 10/372,066
Pang et al.
Filed: February 20, 2003
For: User Interface For A Network-based mask Defect Printability Analysis System

DECISION ON PETITION UNDER *37 CFR 1.48(a)*

This is a decision on the applicant's "Petition to Correct And/Or Add to Originally Named Inventors to a Nonprovisional Application" under 37 CFR 1.48(a) filed April 08, 2005. The applicant requests that the name of Linard Karklin be deleted from the list of inventors as originally filed, namely, Linyong Pang, Daniel William Howard, and Linard Karklin.

After a careful review of the file and applicant having supplied all of the information and requirements of 37 CFR 1.48(a), the petition is hereby **granted**.

The patent application is being in process to respond to amendment in response to the first office action.

Vuthe Siek, Primary Examiner AU 2825

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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WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA PA 19104-2891

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NOV 17 2006
OFFICE OF PETITIONS

In re Application of :
HILLHOUSE :
Application No. 10/372,082 : DECISION DISMISSING PETITION
Filed: February 25, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. IVPH-0086 :

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

The petition is **DISMISSED AS MOOT**.

Petitioner's attention is directed to 37 CFR 1.313(d), which states:

> A petition under this section will not be effective to withdraw the application from issue unless it is actually received and granted by the appropriate officials **before the date of issue**. (Emphasis added)

In this case, the petition was received in the Office of Petitions after the case was issued as patent number 7,114,646 on October 3, 2006. Therefore, as the case has now issued, the petition to withdraw from issue cannot be granted.

The request for continued examination (RCE) filed concurrently with the petition is improper in view of the issuance of this application into a patent and will not be processed. Accordingly, the $790 filing fee and the $130 petition fee submitted are unnecessary and will be refunded in due course.

The Information Disclosure Statement has been made of record in the file of the above-identified application without further consideration. *See* 37 CFR 1.97(i).

Further, petitioner is advised, that while petitions to withdraw from issue may be mailed to the Commissioner for Patents, as was done in this case, applicants were cautioned to hand carry or fax petitions to withdraw from issue directly to the Office of Petitions. *See* MPEP § 1308.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the

address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries should be directed to Monica A. Graves at (571) 272-7253.

Karen Creasy
Petitions Examiner
Office of Petitions

cc: **WOODCOCK WASHBURN LLP**
ONE LIBERTY PLACE, 46TH FLOOR
1650 MARKET STREET
PHILADELPHIA, PA 19103

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 5

FREEDMAN & ASSOCIATES
117 CENTREPOINTE DRIVE
SUITE 350
NEPEAN, ONTARIO K2G 5X3 CA CANADA
AIR MAIL

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JUL 07 2003

OFFICE OF PETITIONS

In re Application of
ROBERT D. HILLHOUSE,
Application No. 10/372,093
Filed: February 25, 2003
Attorney Docket No. 162-21 US

: DECISION GRANTING PETITION

This is a decision on the petition filed June 25, 2003, requesting that the above-identified application be accorded a filing date of February 25, 2003.

On February 25, 2003, applicant deposited the above-identified application. On May 2, 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 June 25, 2003, applicant filed the present petition and a copy of applicant's postcard receipt acknowledging receipt of 22 sheets of drawings on February 25, 2003. Additionally, applicant submitted a copy of the 22 sheets of drawings.

Upon review of the record, the 22 sheets of drawings deposited on February 25, 2003, have not been located among the application papers. However, the evidence is convincing that the application papers deposited on February 25, 2003, included 22 drawing sheets, which were subsequently misplaced in the United States Patent and Trademark Office. Therefore, the application, including 22 drawing sheets, was complete on filing and will be granted a filing date of February 25, 2003.

Accordingly, the petition is granted.

The "Notice of Incomplete Nonprovisional Application," mailed May 2, 2003, was sent in error and is hereby vacated. Accordingly, a petition fee is unnecessary.

The application file is being forwarded to the Office of Initial Patent Examination for correction of the filing date to February 25, 2003, and the mailing of a corrected filing receipt. The Office records should indicate that 22 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

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WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA, PA 19104-2891

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MAR 3 1 2008

In re Application of :

HILLHOUSE, Robert D. :
Application No. 10/372,093 : DECISION ON PETITION
Filed: February 25, 2003 : TO WITHDRAW
Attorney Docket No. **IVPH-0087** : 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 10, 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 Michael P. Dunnam on behalf of all attorneys of record who are associated with customer No. 23377. 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 is an outstanding Office action mailed January 15, 2008 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **ROBERT HILLHOUSE**
120 HOLLAND AVENUE
UNIT 4B
OTTAWA, CANADA K1Y 0X6

cc: **PERKINS COIE**
1201 THIRD AVENUE
SUITE 4800
SEATTLE, WASHINGTON 98101

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PERKINS COIE LLP
PATENT-SEA
P.O. BOX 1247
SEATTLE WA 98111-1247

In re Patent No. 7,512,807
Issued: March 31, 2009
Application No. 10/372,093
Filed: February 25, 2003
Attorney Docket No. 320528495US

: DECISION ON APPLICATION
: FOR PATENT TERM ADJUSTMENT

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT RECONSIDERATION UNDER 37 C.F.R. § 1.705(B)" filed June 1, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from five hundred seventy-three (573) days to eight hundred forty (840) days.

The request for reconsideration of patent term adjustment is **DISMISSED**.

On September 23, 2008, the above-identified application matured into US Patent No. 7,512,807 with a patent term adjustment of 573 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).[1]

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). 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 an additional 267 days of patent term adjustment due to exceeding three year pendency.

The 267-day period is calculated based on the application having been filed under 35 U.S.C. 111(a) on February 25, 2003 and a request for continued examination (RCE)

[1]It is noted that November 23, 2008 was a Sunday and the instant Application For Patent Term Adjustment was filed on the first business day thereafter.

having being filed on December 28, 2006. 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 267 day period, they are entitled to a period of adjustment due to examination delay pursuant to 37 CFR 1.702(a), of 710 days for the failure by the Office to mail at least one of a notification under 35 U.S.C. 132 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a), pursuant to 37 CFR 1.702(a)(1).

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 137 days for applicant delay.

Patentees agree that the total period of Office delay is the sum of the period of Three Years Delay to the filing of the RCE (306 days) and the period of Examination Delay (710 days) to the extent that these periods of delay are not overlapping. Patentees contend that 39 days of the period of delay of 710 days for the Office's failure to mail at least one of a notification under 35 U.S.C. 132 (April 25,2004 to April 5, 2006) overlaps with the Three Year Delay period (February 25, 2006 to December 28, 2006). Patentees assert that this overlapping period is the 39 days running from February 25, 2006 to April 5, 2006.

Accordingly, patentees submit that the total period of Office Delay is 1016 days, which is the sum of the period of Three Year Delay (306 days) and the period of Examination Delay (710 days), reduced by the period of overlap (39 days). As such, patentees assert entitlement to a patent term adjustment of 840 days (306 + 710 reduced by 39 overlap - 137 for applicant delay).

Thus, as of the issuance of the patent on March 31, 2009, the application was pending three years and 306 days after its filing date. The Office agrees that as of the filing of the RCE on December 28, 2006, the application was pending three years and 306 days after its filing date. The Office agrees that the action detailed above was not taken within the specified time frame, and thus, a reduction of 710 days for examination delay was entered. At issue is whether patentees should accrue 306 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as 710 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that 306 days overlap. Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> to the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

Likewise, 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 other words, consideration of the overlap does not begin three years after the filing date of the application.

---

[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).

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the entire period during which the application was pending before the Office, April 25, 2003, to the date the RCE was filed on December 28, 2006. Prior to the filing of the RCE, 710 days of patent term adjustment were accorded for the Office failing to respond within a specified time frame during the pendency of the application. All of the 306 days for Office delay in issuing the patent overlap with the 710 days of Office delay. During that time, the issuance of the patent was delayed by 710 days, not 710 + 306 days. The Office experienced 710 days of examination delay. Otherwise, the Office took all actions set forth in 37 CFR 1.702(a) within the prescribed time frames. Nonetheless, given the 710 days of Office delay and the time allowed within the time frames for processing and examination, as of the filing of the RCE, the application was pending three years and 306 days. The Office did not delay 710 days and then an additional 306 days.

Accordingly, 710 days of patent term adjustment (not 710 and 306 days) was properly entered since the period of delay of 306 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 710 days attributable to grounds specified in § 1.702(a)(1). Entry of both periods is not warranted. Thus, 710 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.

In view thereof, the Office affirms that the revised determination of patent term adjustment at the time of the issuance of the patent is 573 days.

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

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

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SUITE 350
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AIR MAIL

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OFFICE OF PETITIONS

In re Application of :
ROBERT D. HILLHOUSE, :
Application No. 10/372,094 : DECISION GRANTING PETITION
Filed: February 25, 2003 :
Attorney Docket No. 162-22 US :

This is a decision on the petition filed June 25, 2003, requesting that the above-identified application be accorded a filing date of February 25, 2003.

On February 25, 2003, applicant deposited the above-identified application. On May 2, 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 June 25, 2003, applicant filed the present petition and a copy of applicant's postcard receipt acknowledging receipt of 22 sheets of drawings on February 25, 2003. Additionally, applicant submitted a copy of the 22 sheets of drawings.

Upon review of the record, the 22 sheets of drawings deposited on February 25, 2003, have not been located among the application papers. However, the evidence is convincing that the application papers deposited on February 25, 2003, included 22 drawing sheets, which were subsequently misplaced in the United States Patent and Trademark Office. Therefore, the application, including 22 drawing sheets, was complete on filing and will be granted a filing date of February 25, 2003.

Accordingly, the petition is granted.

The "Notice of Incomplete Nonprovisional Application," mailed May 2, 2003, was sent in error and is hereby vacated. Accordingly, a petition fee is unnecessary.

The application file is being forwarded to the Office of Initial Patent Examination for correction of the filing date to February 25, 2003, and the mailing of a corrected filing receipt. The Office records should indicate that 22 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

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CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA, PA 19194-2891

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OFFICE OF PETITIONS

In re Application of :
Robert D. HILLHOUSE :
Application No. 10/372,094 : DECISION ON PETITION
Filed: February 25, 2003 : TO WITHDRAW
Attorney Docket No. IVPH-0088 : 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 10, 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 Michael P. Dunnam on behalf of all attorneys/agents of record associated with Customer Number 23377.

All attorneys/agents of record associated with Customer Number 23377 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

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

There are no outstanding Office actions pending at the present time.

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: ROBERT D. HILLHOUSE,
UNIT 4B, 120 HOLLAND AVENUE
OTTAWA, ONTARIO K1Y 0X6
CANADA

PERKINS COIE
1201 THIRD AVENUE
SUITE 4800
SEATTLE, WA 98101

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/372,094	02/25/2003	Robert D. Hillhouse	IVPH-0088

CONFIRMATION NO. 3076

POWER OF ATTORNEY NOTICE

23377
WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA, PA 19104-2891

Date Mailed: 03/07/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/10/2007.

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

/dcgoodwyn/

Office of Initial Patent Examination (571) 272-4000 or 1-800-PTO-9199

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BURNS, DOANE, SWECKER & MATHIS, L.L.P.
P.O. Box 1404
Alexandria VA 22313-1404

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OFFICE OF PETITIONS

In re Application of
Jurgen Gegner
Application No. 10/372,110
Filed: February 25, 2003
Attorney Docket No. 024349-053
Title: PROCESS FOR PRODUCING A COMPONENT FROM METAL

DECISION ON PETITION UNDER 37 C.F.R. § 1.181(A)

This is a decision on the petition to withdraw the holding of abandonment under 37 C.F.R. §1.181(a), filed on September 20, 2005.

The above-identified application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed March 17, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time are permitted for transmitting issue or publication fees[1]. Accordingly, the above-identified application became abandoned on June 18, 2005. A Notice of Abandonment was mailed on August 30, 2005.

Petitioner has indicated that the Notice was not received, and has included a copy of Petitioner's Docket Report, which establishes that the Notice of Allowance and Issue Fee Due was not received.

The petition under 37 CFR §1.181(a) is **GRANTED**. The holding of abandonment is hereby **WITHDRAWN**.

It is noted that along with the present petition, Petitioner has included the issue and publication fees. After the mailing of this decision, the Office of Patent Publications will be made aware of this decision.

1 See MPEP §710.02(e).

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

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

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OFFICE OF PETITIONS

In re Application of	:	
Watanabe, Shindou	:	
Application No. 10/372,134	:	ON PETITION
Filed: February 25, 2003	:	
Attorney Docket No. 3063D-0024	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed August 30, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an Amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a request to change the address of record should be filed. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

This matter is being referred to Technology Center 1700 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

Cc:

LOWE, HAUPTMAN & BERNER
1700 DIAGONAL ROAD
SUITE 300
ALEXANDRIA, VA 22314

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, DC 20231

1/25/08

Patent No. : 6836062
Inventor(s) : Jun-Jong LEE et al.
Issued : 12/28/04
Title : CATHODE RAY TUBE HAVING COLOR SELECTION APPARATUS
Atty.doc./File No.

Request for Certificates of Correction

Consideration has been given to your request for the issuance of a Certificate of Correction, for the above – identified patent under the provisions of CFR 1.322.

Inspection of the application for the patent reveals that column 9, line 9, is incorrect so the change can not be met. Therefore being no fault on the Patent and Trademark Office, It has no authority to issue a certificate of correction under the provision of 1.322.

In view of the forgoing, your request in this matter, is hereby denied. However, a certificate of correction will be issued to correct the remaining error(s) noted in your request.

Future written correspondence concerning this matter should be filed and directed to Decisions & Certificates of Correction Branch.

Henry Randall
Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 Ext. 108

STEIN,MCEWN &BUI, LLP
1400 Eye St., N.W.
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Washington, DC 20005

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GERMANY

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OFFICE OF PETITIONS

In re Application of :
Porzio et al. : DECISION ON PETITION
Application No. 10/372,150 :
Filed: February 21, 2003 :
Atty Docket No. IN-9519 :

This is a decision on the PETITION FOR RECONSIDERATION OF HOLDING OF ABANDONMENT filed August 3, 2006.

The above-identified application became abandoned for failure to file a timely and proper reply to the Office action mailed June 15, 2005[1]. This Office action set a one-month period for reply, with extensions of time obtainable under § 1.136(a). No reply considered filed and no extension of time considered obtained, the application became abandoned effective July 16, 2005. A courtesy Notice of Abandonment was mailed on March 21, 2006.

Petitioner states that a response to the Notice of Non-compliant Response of June 15, 2005 was sent to the examiner on July 8, 2005. In support thereof, applicants submitted a copy of the disclaimer as resubmitted by facsimile on July 8, 2005.

Petitioner's evidence has been reviewed, and is persuasive. However, consideration of their evidence is unnecessary. Their response, the resubmitted disclaimer, is present in the application with a date of receipt of July 8, 2005.

[1] The Office action was mailed on June 15, 2005, not July 8, 2005 as stated on the Notice of Abandonment. No Office action was mailed on July 8, 2005.

Accordingly, the Notice of Abandonment mailed March 21, 2006 is hereby **VACATED**, and the holding of abandonment is hereby **WITHDRAWN**.

The petition under § 1.181 is **GRANTED**.

No fee is required on petition under § 1.181.

Technology Center AU 1711 has been advised of this decision. The application file is, thereby, forwarded to the Technology Center's technical support staff to withdraw the holding of abandonment and for further consideration by the examiner of the application as appropriate.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5-29-08

TO SPE OF : ART UNIT 1774

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/372152 Patent No.: 6852394

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.

Should Claims be Approved

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

Ennis Young

Certificates of Correction Branch

703-308-9390 ext. 117

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

WIPO doc PCT/JP98/00824 has been scanned into patent.

REVA DYE
SUPERVISORY PATENT EXAMINER

_____ 1794

SPE Art Unit

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500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

Mail Date: 05/11/2010

Applicant	: Khorvash Sefidvash	: DECISION ON REQUEST FOR
Patent Number	: 7656893	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/372,158	: 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 **1456** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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ECKERT SEAMANS CHERIN & MELLOTT
600 GRANT STREET
44TH FLOOR
PITTSBURGH PA 15219

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JAN 16 2007

OFFICE OF PETITIONS

In re Application of :
Dusan Veselic et al. :
Application No. 10/372,180 : ON PETITION
Filed: February 21, 2003 :
Attorney Docket No.: 555255012241 :

This is a decision on the petition filed July 26, 2006 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed September 14, 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 15, 2005. Accordingly, the Notice of Abandonment was mailed August 25, 2006 after the filing of the instant petition.

The petition fee in the amount of $1500.00 has been applied.

This matter is being referred to Technology Center 2838 for appropriate action on the amendment filed July 26, 2006.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

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

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

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

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

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

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)
6691265	2004-02-10	10372183	2003-02-21	2080-3-157

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	/Kendal M. Sheets/	Date (YYYY-MM-DD)	2008-06-25
Name	Kendal M. Sheets	Registration Number	47077

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

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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In re Patent No. 6691265
Issue Date: February 10,2004
Application No. 10372183
Filed: February 21,2003
Attorney Docket No. 2080-3-157

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

This is a decision on the electronic petition, filed June 25,2008 ,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 June 25,2008 . 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.

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12010 SUNSET HILLS ROAD
SUITE 900
RESTON VA 20190

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NOV 1 8 2005

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
KHOZAI, BAHRAM :
Serial No.: **10/372,199** : DECISION ON PETITION
Filed: February 25, 2003 : *ACCEPTANCE OF COLOR DRAWINGS*
For: **SYSTEM AND METHOD TO PRESENT AND DISPLAY MULTIPLE DATA USING ENHANCED BOX CHARTS** :

This is a decision on the petition under 37 C.F.R. § 1.84(a)(2), filed July 7, 2003, requesting acceptance of color drawings.

The petition requests that the color drawings identified in figures 3-8, 9A, 9B, 9C, 10A, 10B, 11-14, 15A, 15B, and 16-23, be accepted in lieu of black and white drawings.

A grantable petition under 37 C.F.R. §1.84(a)(2) must be accompanied by a fee set forth under 37 C.F.R. § 1.17(h), 3 (three) set of the color drawings in question, and the specification must contain, or be amended to contain, the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings:

"The file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee."

The petition is ***DENIED***.

The petition was filed without the specification containing or an amendment to contain the language mentioned in the paragraph above.

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Bahram Khozai
Serial No.: **10/372,199**
Filed: February 25, 2003
For: **SYSTEM AND METHOD TO PRESENT AND DISPLAY MULTIPLE DATA USING ENHANCED BOX CHARTS**

DECISION ON PETITION
ACCEPTANCE OF COLOR DRAWINGS

This decision is a result of a telephone interview held December 12, 2005, with Mr. Bradford Blaise. Mr. Blaise requested reconsideration of the November 18, 2005 petition decision which denied entry of color drawings for lack of the required amendment to the specification.

Mr. Blaise indicated during the interview that there was a prior petition filed, other than the July 7, 2003 petition referenced in the decision mailed November 18, 2005.

A review of the application file revealed that applicants had originally filed their petition pursuant to 37 C.F.R. § 1.84(a)(2), on February 25, 2003 with the original filing of the application. The original petition of February 25, 2003 included an amendment to the specification to include the statement set forth above. Unfortunately, the original petition was improperly listed by the Office as part of the transmittal letter.

The petition requested that the color drawings identified in figures 3-8, 9A, 9B, 9C, 10A, 10B, 11-14, 15A, 15B, and 16-23, be accepted in lieu of black and white drawings.

A grantable petition under 37 C.F.R. §1.84(a)(2) must be accompanied by a fee set forth under 37 C.F.R. § 1.17(h), 3 (three) set of the color drawings in question, and the specification must contain, or be amended to contain, the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings:

"The file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee."

Applicants have satisfied the requirements of 37 C.F.R. §1.84(a)(2). Accordingly, the petition to accept color drawings is ***GRANTED***.

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications

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SUITE 900
RESTON VA 20190

In re Application of
Bahram Khozai
Serial No.: **10/372,199**
Filed: February 25, 2003
For: **SYSTEM AND METHOD TO PRESENT AND DISPLAY MULTIPLE DATA USING ENHANCED BOX CHARTS**

DECISION ON PETITION
ACCEPTANCE OF COLOR DRAWINGS

This decision is a result of a telephone interview held December 12, 2005, with Mr. Bradford Blaise. Mr. Blaise requested reconsideration of the November 18, 2005 petition decision which denied entry of color drawings for lack of the required amendment to the specification.

Mr. Blaise indicated during the interview that there was a prior petition filed, other than the July 7, 2003 petition referenced in the decision mailed November 18, 2005.

A review of the application file revealed that applicants had originally filed their petition pursuant to 37 C.F.R. § 1.84(a)(2), on February 25, 2003 with the original filing of the application. The original petition of February 25, 2003 included an amendment to the specification to include the statement set forth above. Unfortunately, the original petition was improperly listed by the Office as part of the transmittal letter.

The petition requested that the color drawings identified in figures 3-8, 9A, 9B, 9C, 10A, 10B, 11-14, 15A, 15B, and 16-23, be accepted in lieu of black and white drawings.

A grantable petition under 37 C.F.R. §1.84(a)(2) must be accompanied by a fee set forth under 37 C.F.R. § 1.17(h), 3 (three) set of the color drawings in question, and the specification must contain, or be amended to contain, the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings:

"The file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee."

Applicants have satisfied the requirements of 37 C.F.R. §1.84(a)(2). Accordingly, the petition to accept color drawings is ***GRANTED***.

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

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

In re Application of:
UEDA, TOMOHIRO, et al.
Application Serial No.: 10/372,212
Filed: February 25, 2003
For: **HIGH-EFFICIENCY ENCODER AND VIDEO INFORMATION RECORDING/REPRODUCING APPARATUS**

DECISION
ON PETITION

This is a decision on the petition, filed on December 6, 2005 under 37 C.F.R. §1.181 requesting that the subject application be made special under 37 CFR 1.102.

708.01 [R-2] List of Special Cases, states in part:
(I) Applications pending more than 5 years, including those which, by relation to a prior United States application, have an effective pendency of more than 5 years. See MPEP § 707.02. [emphasis added]

In accordance with MPEP section 708.01(I), applications pending over 5 years, including those which by relation to a prior United States application, should be considered special. This application by virtue of its prolonged pendency is already considered special in accordance with PTO policy.

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

It is further noted that an Office action was mailed on November 5, 2005.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

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NOV 30 2004

OFFICE OF THE DIRECTOR
TC 3600

Hall, Priddy, Myers and Vande Sande
Suite 200
10220 River Road
Potomac MD 20854

In re application of : **DECISION ON PETITION**
Robert P. Hughes : **TO MAKE SPECIAL**
Application No. 10/372,237 : **(INFRINGEMENT)**
Filed: February 25, 2003 :
For: DISPLAY PANELS

This is a decision on the petition under 37 C.F.R § 1.102(d) filed October 7, 2004 to make the above-identified application special. The petition requests that the above-identified application be made special under the procedure set forth in M.P.E.P. § 708.02, item II: Infringement.

MPEP 708.02 states that a Petition to Make Special based on Infringement must have the following: (1) the appropriate petition fee under 37 CFR 1.17(i); (2) a statement by the assignee, applicant, or attorney alleging: (A) that there is an infringing device or product actually on the market or method in use; (B) that a rigid comparison of the alleged infringing device, product or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and (C) that he or she has made a careful and thorough search of the prior art, or has good knowledge of the prior art, and has sent a copy of the references deemed most closely related to the subject matter encompassed by the claims.

The petition filed October 7, 2004 lacks requirement 2(B) above. The petition includes a staterment by Matthew A. Pequignot., the attorney of record in the above noted application. Mr. Pequignot states, "On Wednesday, September 22, 2004, at the POP show in Chicago, Illinois, a competitor, Bob Douglas utilized a display panel believed to infringe at least one claim of the subject application."

This statement is insufficient to grant a petition under 37 CFR 1.102 (d) to make the above-identified application special under the procedure set forth in M.P.E.P. § 708.02, item II: Infringement. In this regard, the statement fails to expressly state "that a rigid comparison of the alleged infringing device, product or method with the claims of the application has been made", and that, in the opinion of the person making the statement, "some of the claims are unquestionably infringed",

as required by 2(B) of M.P.E.P. § 708.02. In view of this deficiency, the petition is **DISMISSED**.

With regards to element 2(C) above, an Information Disclosure Statement was filed on February 20, 2004.

Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Should petitioner desire reconsideration, he should supplement this petition by a declaration or statement giving the information as outlined above.

Applicant should promptly submit a renewed petition to the Commissioner of Patents and Trademarks, Washington, D.C. 20231. The envelope should indicate that the correspondence be brought to the attention of Technology Center 3600.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
(703) 308-2121

RAR: 11/23/04

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Commissioner for Patents
United States Patent and Trademark Office
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STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

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OFFICE OF PETITIONS

In re Application of :
Kim, et al. :
Application No. 10/372,265 : ON PETITION
Filed: February 25, 2003 :
Attorney Docket No. 1572.1126 :

This is a decision the petition to withdraw the holding of abandonment under 37 CFR 1.181.

The petition under 37 CFR 1.181(a) to withdraw the holding of abandonment is **granted**.

This application was held abandoned on November 26, 2006, after it was believed that no response was received to the non-final Office action mailed August 25, 2006. The notice allowed a shortened period for reply of three (3) months from its mailing date. Extensions of the time set for reply were available pursuant to 37 CFR 1.136(a). A Notice of Abandonment was mailed on May 17, 2006, indicating that a reply to the non-final Office action, was not received.

The instant petition maintains that the response to the non-final Office action was timely filed. A copy of the response with a copy of the Office date-stamp postcard whereby the Office acknowledged having received an amendment and check for $200.00 on November 22, 2006. The abandonment is being withdrawn on the basis of the Office date-stamped postcard receipt.

Based on the aforementioned, it appears that the application was improperly held abandoned as a proper response was received prior to expiration of the period for reply. The holding of abandonment is withdrawn, accordingly.

The application file is being forwarded to Technology Center 2800, GAU 2816 for further processing, including processing of the amendment filed November 22, 2006, a copy of which was filed with the instant petition.

Questions regarding this decision may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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COMMISSIONER FOR PATENTS
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McGinn & Gibb, PLLC
8321 Old Courthouse Road
Suite 200
Vienna, VA 22182-3817

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OFFICE OF PETITIONS

In re Patent No. 6,828,589 :
Issue Date: December 7, 2004 :
Application No. 10/372,278 : ON PETITION
Filed: February 25, 2003 :
Attorney Docket No. OSP-10114DIV :

This is a decision on the petition filed December 3, 2004 under 37 CFR 1.183, which is being treated as a request under 37 CFR 3.81(b) to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is granted.

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

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3223. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

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

UNITED STATES PATENT AND TRADEMARK OFFICE JUL 31 2002

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
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JUL 30 2002

RECEIVED: 8-5-02

OBLON SPIVAK MCCLELLAND MAIER & NEUSTADT PC
FOURTH FLOOR
1755 JEFFERSON DAVIS HIGHWAY
ARLINGTON VA 22202

OBLON SPIVAK McCLELLAND
MAIER & NEUSTADT, P.C.
DOCKETING DEPT.
Initials/Date Docketed: 8-5-02
Type of Resp(s):
Due Date(s):

In re Application of
Vierira, et al.
Application No. 09/908,888
Filed: July 20, 2001
For: Fabrication Of A Wavelength Locker Within A Semiconductor Structure
Attorney Docket No. 211692US99

: RESPONSE TO PETITION
: UNDER 37 CFR 1.182
: SEEKING SPECIAL
: TREATMENT OF DISCLOSURE
: STATEMENTS, AND
: DECISION ON PETITION
: UNDER 37 CFR 1.183
: SEEKING WAIVER OF
: REQUIREMENTS UNDER
: 37 CFR 1.98

This is a response to a petition under 37 CFR 1.182 filed on April 12, 2002 and supplements filed on July 1, 2002 and on July 12, 2002. The § 1.182 petition requests special treatment of disclosure statements filed pursuant to 37 CFR 1.98. Additionally, the petition requests waiver of the rules which waiver is treated as a request under 37 CFR 1.183, for relief from the current requirements for Information Disclosure Statements under 37 CFR 1.98. The request for special treatment and waiver are made in view of the need to file multiple applications relating to different aspects of a particular invention. The § 1.182 petition also contains a request seeking permission to submit prior art submissions on compact disc and the establishment and searching of an Official classification(s) based on the prior art submission. The petition under 37 CFR 1.183, is requesting relief from the § 1.98 provision which requires filing paper copies of references in each of many related applications where the references are being cited by Petitioner.

The petition under 37 CFR 1.182 requesting special treatment of disclosure statements, and the petition under 37 CFR 1.183 regarding the submission of a reduced number of paper copies of IDS references is **GRANTED IN PART** to the extent set forth below.

The Decision is set forth in five parts:

- Part I. Background
- Part II. Petition Under 37 CFR 1.182 - Special Treatment
- Part III. Petition Under 37 CFR 1.183 - Paper Copies
- Part IV. Summary
- Part V. Further Correspondence

Part I. Background

The instant application filed under 35 U.S.C. 111 is one of about 330 U.S. applications (either filed or to be filed) relating to

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different aspects of an invention listed in the July 1, 2002 supplement to the petition. An appendix prepared by Technology Center 2800 indicates approximately 300 of the applications have been classified for examination in Technology Center 2800. The balance of about 30 applications are in five other Technology Centers. The July 12, 2002 supplement to the petition indicates that an Information Disclosure Citation List has in excess of 400 reference citations.

Petitioner's submission of an Information Disclosure Statement is taken as an attempt to comply with 37 CFR 1.56(b)(1) that requires disclosure to the Office of information that "establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim...." Such disclosure can be made by an Information Disclosure Statement (IDS) in the manner prescribed by 37 CFR 1.97 and 1.98.

Part II. Petition Under 37 CFR 1.182 - Special Treatment

The petition requests the establishment of an Official search classification containing all of the references cited in the IDS and that the examiners be required to search that classification.

As is the case with all search Digests, their creation and usefulness is continually evaluated. The Office will create and place appropriate references in Digests as they are discovered. The Office will not commit to placement of each IDS citation, made in all of the bulk filing applications, in any Digest(s) as the particular relevancy of the citations at this time is uncertain because petitioner has supplied no explanation of any of the citations. The Office will not require that any digest(s) created be searched for each of the bulk filing applications as the appropriate search for any particular application is within the determination and discretion of individual examiner based on the claim(s) of that application.

The petition also mentions the submission of additional copies of the references on compact disc for the examiner's convenience which appear to be courtesy copies. Courtesy copies will not be made part of the Official record of any application and cannot be relied upon for meeting any requirement for the submission of an information disclosure statement. There is insufficient information in the petition concerning the data formats and software requirements to accord the compact discs any other status. Further, as discussed below, the Office has a procedure for electronically submitting citations without paper copies for an Information Disclosure Statement. Hence it is not clear why relief is required under § 1.182. In view of the relief granted below, and that no specific action is requested concerning the compact disc submission, no further discussion of the compact discs is required in this decision.

Petition under § 1.182 is Dismissed.

Part III. Petition Under 37 CFR 1.183 - Paper Copies

37 CFR 1.98 requires that any information disclosure statement provide a copy of all patents, publications or other information submitted under 37 CFR 1.97 for consideration by the Office. 37 CFR 1.97 notes that information disclosure statements are considered in regard to the application in which they are filed. See also MPEP 609, pages 600-118 and 600-119.

Paper copies: Petitioner notes that the instant application is one of about 330 bulk filing applications that will be or have been filed in regard to a particular technology. Accordingly, Petitioner requests that individual paper copies of each citation brought to the attention of the Office in regard to the instant individual application, the "holding" application, not be required to be submitted in each related "bulk filing" application. Rather, it is requested that three complete sets of paper copies be permitted to be filed as a substitute for filing in each application.

Rather than be required to submit, via a paper copy, 400 reference in each of 330 applications, Petitioner seeks to have:

(1) Three complete sets of paper copies of each IDS citation submitted;

(2) One application (the instant application) identified as a "holding" application which would contain one complete set of paper copies of references; the paper copies of U.S. patents to be submitted in only the "holding" application;

(3) The other related pending U.S. applications, hereafter referred to as the "bulk filing" applications, be exempt from containing a paper set of the references; the bulk filing applications will contain other information, e.g., a copy of the decision on petition permitting such procedure, a copy of the Form 1449 (or equivalent). The petition does not indicate whether the paper references that are to be submitted as a numbered compendium, which numbering will correspond to the numbering in a PTO-1449 form.

(4) The information supplied via the bulk filing IDS will be updated approximately monthly.

Once past the initial IDS submission, the petition proposes the waiver to apply to updates.

Suspension of action: In view of the use of the instant application as a holding application (to contain a complete set of paper copies of reference citations, which can be consulted by the examiner when examining any of the other bulk filing applications that have a Form 1449 but not the paper copies of the references), the petition does not address how upon allowance the instant holding application will be treated. Whether the application can remain as the holding application without a suspension of action is not addressed. An alternative not discussed in the petition is that an alternate application may be designated as the holding application.

Termination: Petitioner does not seek a specific right of termination. Termination by the Office is to be by written notice to the attorney giving a 2 month period. Termination by Petitioner is to be by returning to compliance with 37 CFR § 1.98. The Office will accept and specifically reserve the right to terminate the waiver grant in regard to § 1.98(a)(2) without provision of reasons. Should a termination of the waiver be desired by the Office, the Office will provide written notice to the correspondence address of record. In such event, a two month period will be given where paper copies would have to be supplied in all applications where new citations are made. Termination by Applicant may be by returning to compliance with § 1.98(a)(2) without formal notice thereof and no transition/continuing period after termination is required.

Different Technology Centers: It appears from the petition that Petitioner intends to cite every reference cited in any of the 330 applications in every other application. No references will be omitted because they are less relevant or cumulative of those already of record in a particular application. At least 30 of the applications are of such divergent technologies that they are in 5 technology centers outside Technology Center 2800. The applications outside Technology Center 2800 will be examined in areas without convenient access to the paper copies in Technology Center 2800. The 5 other technology centers have requested more access to the paper copies than the relief granting this petition for all 330 applications will afford. It is not clear from the petition why citing every reference in every application when they are in such diverse technologies is necessary or required by § 1.56. Relieving petitioner of the burden of filing paper copies in applications outside Technology Center 2800 will create an additional burden on the examiners of those applications. It is also possible for applicant to comply with 37 CFR 1.98 for U.S. Patents and Patent application publications by submitting references via "e-IDS.[1]" Hence it appears that petitioner has not demonstrated why a waiver for those applications filed outside Technology Center 2800 is necessary.

Decision: 37 CFR 1.183 provides relief for extraordinary situations, when justice requires suspension of any requirement of the regulations which is not a requirement of the statutes. The instant petition urges that not only would applicant be spared the necessity of submitting duplicative paper copies of U.S. patents in over 300 applications, but also the Office would benefit from not having to handle and store the duplicative sets of copies. While there may be some negative effects from the Office's point of view in terms of making the copies available to different examiners handling the various applications, on balance, there is seen to be sufficient benefit to justify waiver in this instance for the applications filed in Technology Center 2800. With respect to those applications being examined outside

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[1]The instructions for submitting an e-IDS can be downloaded at:
http://www.uspto.gov/ebc/efs/downloads/documents/EFSePAVE_April23.pdf.

Technology Center 2800, on balance, the burden on petitioner is substantially less to provide an additional paper copy for each application with significantly less benefit to the Office waiving the requirement. Further with respect to other 30 applications the need to submit these references has not been established nor has petitioner addressed alternative methods of compliance.

Accordingly, the petition under 37 CFR 1.183 is granted to the extent indicated and under the terms and conditions as are set forth below.

The § 1.98(a)(2) requirement for (the submission of) a copy of each IDS citation in a bulk filing application will be waived in the bulk filing applications examined in Technology Center 2800 provided that the following 9 conditions are complied with:

1) Three paper copies of each IDS citation are or have been submitted to the Office;

2) Each (bulk filing) application for which waiver of § 1.98(a)(2) is desired refers to the instant holding application, such as by a claim of priority under 35 U.S.C. 120, or as containing related technology;

3) The information is or has also been cited in the holding application;

Note: Applicant is not required to cite in each bulk filing application every item of information that is cited in the instant holding application. Items should be cited in each bulk filing application on the basis of relevancy and materiality to the particular claims in the bulk filing application and what each piece of information teaches.

A waiver is not granted (for the requirement to supply a paper copy of an IDS citation in another bulk filing application) where the citation is not, or has not been, made in the instant holding application.

4) A copy of this Decision is filed in each bulk filing application for which waiver is requested;

5) Explanatory information related to a particular citation, such as the concise explanation of a foreign language reference under § 1.98(a)(2), once submitted in the holding application must be supplied in each bulk filing application where the citation is made.

6) The Office accepts and specifically reserves the right to terminate the waiver grant in regard to § 1.98(a)(2) without provision of reasons. In such event, a two month period will be given where paper copies would have to be supplied in all applications where new citations are made. Should a termination of the waiver be desired by the Office, the Office will provide written notice to the correspondence address of record. Termination by applicant may be by returning to compliance with § 1.98(a)(2) without formal notice thereof and no transition/continuing period after termination is required.

7) The grant of the § 1.183 petition re § 1.98(a)(2) does

not indicate that the Office would favorably treat a petition to suspend action under § 1.103(a) should the instant holding application be allowed. Issuance of the instant application as a patent is not seen to terminate its usefulness either: (1) as a holding application for references by examiners working on other related applications, or (2) as a vehicle for the storage of references to be cited even after the patent issues (35 U.S.C. 301, 37 CFR 1.501, and MPEP 2202). Should the instant application become abandoned, the issue of continued introduction of paper copies of new citations could be taken up at that time. The Office, however, may consider suspending or taking other appropriate action in the instant holding application in the event the holding application is allowed, if it is in the best interest of the Office to do so.

8) There will be no waiver of any aspects of 37 CFR 1.98 in any application after allowance or final rejection of that application.

9) The copies will be submitted as a compendium with the reference numbering in the Form 1449 corresponding to the presentation of the references in the compendium.

Part IV. Summary

The petition under 37 CFR 1.182 requesting special treatment by creation of special digests and accepting compact disc submissions is dismissed because there is no showing that the relief granted below under 37 CFR 1.183 is not sufficient for compliance with 37 CFR 1.56.

The petition under 37 CFR 1.183 agreeing to supply three copies of each IDS citation in a holding application and requesting waiver of the paper copy requirement for submission in every related application under § 1.98(a)(2) is granted for those applications examined in Technology Center 2800, however, the following is not agreed to:

- the waiver of supplying a paper copy of each reference in applications examined outside Technology Center 2800.
- the creation of Official search classifications and the mandatory search thereof.
- The establishment of an Official search classification containing all of the references cited in the IDS and that the examiners be required to search that classification.

Part V. Further Correspondence

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

By mail: Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

By FAX: (703) 872-9005

By hand: Crystal Plaza Four, Suite 3C23
2201 South Clark Place
Arlington, VA 22202

Telephone inquiries should be directed to Michael L. Lewis at (703)306-5585.

Robert J. Spar
Director
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

Attachment: TC Assignment Appendix

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21290905-8737-8737-99	09930270	2826
	9985757	2828
209282U5-8737-873799	09852109	2828
210787US-8737-8737-99	09901905	2828
210785US-8737-8737-99	09903740	2828
210257US-8737-8737-99	09910035	2828
21217305-8737-8737-99	09921900	2828
213011 US-8737-8737-99	09930243	2828
	10166196	2829
206166US-8737-8737-99	09425945	2829
209696US-8737-8737-99	09882064	2829
211324US-8737-8737-99	09904895	2829
211332 US-87378737-99	09905116	2829
211893US-8737-8737-99	09911445	2829
211723US-8737-8737-99	09911446	2829
21181 OUS-8737-8737-99	09911495	2829
215295US-8737-8737-99	09983326	2829

Docket Number	Application #	Art Unit
205915US-8737-9737-99	09624803	2834
211916US-8737-8737-99	09911487	2839
217731 US-8737-8737-99	10026812	2841
	10151950	2851
217354US-8737-8737-99	10020898	2861
205972US-8737-873799	09624698	2872
205939US-8737 837-99	09669602	2873
205950U"737-8737-99	09607236	2874
205951 US-8737-8737-99	09607744	2874
205947US-8737-8737-99	09608807	2874
209409U$-8737-8737-99	09870836	2874
209162US-8737r8737-99	09870837	2874
217678US-8737-8737-99	09908885	2874
210824US-8737-8737-99	09909906	2874
211854US-8737-8737-99 -	09911457	2874
211808US-8737-8737-99	09911466	2874
211807US-8737-8737-89	09911469	2874
211911 US-8737-8737-99	09911472	2874
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21209805-8737-8737-99	09919927	2874
212950US-8737-8737-99	09929019	2874
215539US-8737-8737-99-CONT	09983866	2874
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205944US-8737-8737 99	09609262	2877
209403US-8737-8737-99	09870831	2877
209338US-8737-8737-99	09870832	2877
209695US-8737-8737-99	09882067	2878
209402US'.8737-8737-99	09870835	2881
210794US-8737-8737-99	09899996	2881
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21242505-8737-8737-99	09921895	2881
212426US-8737.-8737-99	09921896	2881
212590US-8737-8737-99	09927393	2881
209342US-87378737-99	09870833	2882
	9905115	3662
	9911420	3663
	09607722	3736

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DEC 28 2004

PATENT GROUP
CHOATE, HALL & STEWART
EXCHANGE PLACE, 53 STATE STREET
BOSTON MA 02109

In re Application of:	:	
MIZUTANI, HIROSHI	:	DECISION ON PETITION TO
Application No. 09/372,322	:	WITHDRAW HOLDING
Filed: August 11, 1999	:	OF ABANDONMENT
Attorney Docket No. NEM-01601	:	

This is a decision on the petition filed April 29, 2004, to withdraw the holding of abandonment of the above-identified application. No petition fee is required.

The petition is **granted.**

A final Office action was mailed on November 15, 2002. A three month extension of time and A Notice of Appeal were filed on May 19, 2003 with a Certificate of Mailing that included a date of deposit of May 15, 2003. A five-month extension of time was filed on December 15, 2003. In the apparent absence of a timely response, the application was held abandoned and a Notice of Abandonment was mailed on April 20, 2004. The Notice of Abandonment indicated that the applicant's reply of December 15, 2003, was not timely in that it was received after the expiration of the period for reply.

Petitioner asserts that a timely response was received by the United States Patent and Trademark Office (PTO) on December 15, 2003. The response included a petition for an extension of time of five months with the required fee. The petitioner asserts that the filing of a five month extension of time for the purpose of a the continuation, was proper based on the two-month period from the filing of the Notice of Appeal (filed May 19, 2003) and the additional five month extension allotted to file the appeal brief.

A review of the application file record reveals that a proper Notice of Appeal was filed May 19, 2003. Accordingly, the five-month extension of time filed on December 15, 2003 for the purpose of filing a continuing application is considered a proper response (See MPEP 1206).

For the above stated reason, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. The application is restored to pending status until midnight December 15, 2003. Thus, the filing of the continuing application that was made on December 15, 2003 is proper and timely. However, the application is now abandoned.

Inquiries regarding this decision should be directed to Lissi Mojica Marquis at (571) 272-1596.

James C. Dwyer

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

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HOUSTON, TX 77253-3267

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JAN 0 5 2006

OFFICE OF PETITIONS

In re Application of :
Thomas Day et al :
Application No. 10/372,364 : DECISION GRANTING PETITION
Filed: February 21, 2003 : UNDER 37 CFR 1.137(b)
Attorney Docket No. CAL-267 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 12, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed January 28, 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 April 29, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a Request for Continued Examination (RCE), fee of $790, and submission as required by 37 CFR 1.114; (2) the petition fee of $1,500; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office action of January 28, 2005 is accepted as having been unintentionally delayed.

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

This matter is being referred to Technology Center AU 3732 for processing the RCE and for appropriate action on the submission under 37 CFR 1.114.

Frances Hicks
Petitions Examiner
Office of Petitions

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Allston L. Jones
Peters, Verny, Jones & Schmitt, LLP
425 Sherman Avenue, Suite 230
Palo Alto, CA 94306

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AUG 1 6 2004

OFFICE OF PETITIONS

In re Application of :
Chien-Jen Hsiao :
Application No. 10/372,384 : DECISION ON PETITION
Filed: February 21, 2003 : UNDER 37 CFR 1.55(c)
Attorney Docket No. 3827.03 (ALJ) :

This is a decision on the petition under 37 CFR 1.55(c), filed February 23, 2004, requesting acceptance of an unintentionally delayed claim under 35 U.S.C. § 119 (a) - (d) for benefit of the filing date of Taiwan Application No. 091218569, filed November 19, 2002.

The petition is **DISMISSED** as moot for the reason stated below.

The instant petition is unnecessary since the claim for priority was timely made in the oath or declaration as required by 37 CFR 1.63(c)(2) and within the time period provided by 37 CFR 1.55(a)(1). Additionally, a petition under 37 CFR 1.55(a) is likewise unnecessary as the priority document was present on the filing of the instant application.

In view of the above, the instant petition is dismissed as involving a moot issue. Consequently, the $1,330 petition fee submitted will be credited to petitioner's deposit account in due course.

Receipt is acknowledged of papers submitted under 35 U.S.C. § 119. The priority papers are accepted as timely filed and have been placed of record in the file.

Since 37 CFR 1.63 requires that any application claiming benefit of a foreign priority, pursuant to 37 CFR 1.55, be made in the oath/declaration or application data sheet (ADS), the amendment to the first line of the specification is unnecessary, and will not be entered.

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

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220 20th Street S
Customer Window, Mail Stop Petitions
Crystal Plaza Two Lobby, Room 1B03
Arlington, VA 22202

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

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

Any questions concerning this matter may be directed to Andrea Smith at (703) 308-6711.

Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Frances Hicks
Lead Petitions Examiner

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& DUNNER
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

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OCT 05 2005

OFFICE OF PETITIONS

In re Application of :
Masamitsu Itoh :
Application No. 10/372,396 : ON PETITION
Filed: February 25, 2003 :
Attorney Docket No. 04329.3006 :

This is a decision on the petition, filed October 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 8, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 1756 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

---

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

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

In re Application of: Chet BERGER, et al.
Application No. 10/372,399
Filed: Feb 25, 2003
For: USING AN IDENTITY-BASED COMMUNICATION LAYER FOR COMPUTING DEVICE COMMUNICATION

DECISION ON PETITION UNDER 37 CFR § 1.181

This is a decision on the petition filed Feb 12, 2008 under 37 CFR § 1.181 to invoke Supervisory Authority of the Commissioner and require the Examiner to designate a new ground of rejection in the Examiner's Answer mailed Feb 12, 2007.

The petition is **DISMISSED.**.

BACKGROUND

On Oct 15, 2007, Appeal Brief was filed in response to the Final rejection dated Mar 09, 2007.

On Nov 16, 2007, an Examiner's Answer was mailed.

On Nov 29, 2007, the Examiner's Answer was returned to the examiner for consideration of IDSs filed Aug 18, 2006 and Feb 28, 2007.

On Dec 06, 2007, a PTO-90C communication was mailed indicating IDSs mailed Aug 18, 2006 and Feb 28, 2007 were considered.

On Dec 12, 2008, a second Examiner's Answer was mailed superseding the previous Examiner's Answer; the second Examiner's Answer includes identical ground of rejection and response to argument in the Examiner's Answer mailed Nov 29, 2008.

On Feb 12, 2008, a petition to the Director under 37 CFR § 1.181 was filed requesting the Examiner to designate a new ground of rejection in the Examiner's Answer mailed Dec 12, 2007. The petition alleges that second Examiner's Answer (mailed Dec 12, 2008) ostensibly

maintains the same 103 rejection as set forth in the Final office action; however, responds to appellant's arguments by introducing and relying on two new references (one of which is not even prior art) for the first time, what one of ordinary skill in the art would have known about the Internet address and purportedly relies on this new evidence as supporting the Examiner's new proposition.

RULES AND PROCEDURES

MPEP§ 1207.03 III states, in part:

> There is no new ground of rejection when the basic thrust of the rejection remains the same such that an appellant has been given a fair opportunity to react to the rejection.
>
> Where the statutory basis for the rejection remains the same, and the evidence relied upon in support of the rejection remains the same, a change in the discussion of, or rationale in support of, the rejection does not necessarily constitute a new ground of rejection.

MPEP § 2111.01 III states, in part:

> The ordinary and customary meaning of a term may be evidenced by a variety of sources, including "the words of the claims themselves, the remainder of the specification, the prosecution history, and ***extrinsic evidence concerning relevant scientific principles***, the meaning of technical terms, and the state of the art... If extrinsic reference sources, such as dictionaries, evidence more than one definition for the term, the intrinsic record must be consulted to identify which of the different possible definitions is ***most consistent with applicant's use of the terms.***

MPEP § 2131 II states, in part:

> Extra References or Other Evidence Can Be Used to Show Meaning of a Term Used in the Primary Reference.
>
> Extrinsic evidence may be used to explain but not expand the meaning of terms and phrases used in the reference relied upon as anticipatory of the claimed subject matter.

OPINON

A review of the file history indicates that: 1) In the claim rejection, the second Examiner's Answer maintains the same 103 rejection as set forth in the Final office action; and 2) In the arguments, the examiner relies on the same rational as set forth in the response to arguments of the Final office action regarding the meaning of the term **"network identifier"** which equates to the **"IP address"** as applied to the Raciborski reference (prior art of record). The examiner further adds an explanation of how the **"IP address"** as taught by the Raciborski reference reads on the term **"network identifier"** as claimed.

In the discussion of the rejection, the examiner provides a detail explanation of the format and content of the "**IP address**" and relies upon the added references as extrinsic evidence to provide an explicit meaning of the term "IP address" to *show that the "**IP address**" of the Raciborski reference read on the claimed "**network identifier**"*. The extrinsic evidence, as indicated by the applicant, includes Webopedia pages dated 2004 and 2007 and portions of Stevens' TCP/IP protocol 1994 book, pages 8-9 and 42-47. The extrinsic references appears to be proper according to MPEP§ 2111.01 III and § 2131 II.

As for the date of the added reference; since the references were not used to reject the claims, the date of the extrinsic evidence is not at issue. Furthermore, the examiner seems to rely upon the extrinsic evidence to show the fundamental format of an IP address, which goes back beyond the introduction of the Internet or TCP/IP protocol to the public in the early 1970s, rather than the publication of the dictionary definition; therefore the fact that the Webopedia pages dated 2004 and 2007 is not relevant.

DECISION

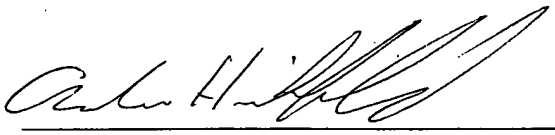
Since the statutory basis for the rejection remains the same, and the evidence relied upon in support of the rejection remains the same, and the change in the discussion and rationale in support of the rejection is proper; it is concluded that Examiner's Answer mailed Dec 12, 2008 did not introduce new ground of rejection pursuant MPEP 1207.03.

Accordingly, the petition is **DISMISSED.**

Since the TC Director agrees with the examiner that the rejection is not a new ground of rejection, the examiner is not required to send a corrected examiner's answer.

Upon the mailing of this decision, the application will be forward to the Board of Appeal.

Any inquiry concerning this decision should be directed to Kim Huynh, whose telephone number is (571) 272-4147.



Andrew Hirshfeld
Technology Center 2100
Computer Architecture, Software,
and Information Security

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KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD, NJ 07090

Mail Date: 04/21/2010

Applicant	: Adu Gyamfi Darkwa	: DECISION ON REQUEST FOR
Patent Number	: 7597880	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/372,416	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/24/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **933** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

SPE: K. Eastham

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 8/16/06 **Paper No.:** _____

TO SPE OF : ART UNIT 2838

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/372,446 Patent No.: 6833686

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: _____

_____

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_____

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JACKSONVILLE, FL 32244

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MAR 16 2009

OFFICE OF PETITIONS

In re Application of :
Ancil FORD, et al :
Application No. 10/372,458 : ON PETITION
Filed: February 21, 2003 :
Attorney Docket No. 020601001 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 2, 2009, to revive the above-identified application.

The petition is **DISMISSED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before February 16, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed November 16, 2006, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on February 17, 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) 3.

The statement of delay is not acceptable. 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 unsigned amendment (or other paper) or one not properly signed by a person having authority to prosecute the application is not entered. This applies, for instance, where the amendment (or other paper) is signed by only one of two applicants and the one signing has not been given a power of attorney by the other applicant.

Therefore, as the petition is not signed by all the inventors and the record herein fails to disclose that petitioner herein (Ancil Ford) was ever given a power of attorney to act on behalf of inventor Burnette Ford, or that he is an assignee of the entire interest and has complied with the provisions of 37 CFR 3.73(b), the petition is considered to not contain a proper statement of unintentional delay.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

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

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

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

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

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at (571) 272-6735.

Thurman Page
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
Ancil FORD, et al	:	
Application No. 10/372,458	:	DECISION ON PETITION
Filed: February 21, 2003	:	
Attorney Docket No. 020601001	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed April 8, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before February 16, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed November 16, 2006, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on February 17, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the Issue Fee of $755 and Publication Fee of $300; (2) the petition fee of $810; and (3) the required statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at (571) 272-6735.

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

Thurman Page
Petitions Examiner
Office of Petitions

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ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

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APR 23 2004

OFFICE OF PETITIONS

In re Application of :
Denwood F. Ross III et al :
Application No. 10/372,463 : DECISION GRANTING PETITION
Filed: February 24, 2003 : UNDER 37 CFR 313(c)(2)
Attorney Docket No. VTN476 :

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

The petition is **GRANTED**.

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

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

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

This matter is being referred to Technology Center AU 2878 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 7

Roy W. Hardin
Locke Liddell & Sapp, LLP.
2200 Ross Ave., Ste. 2200
Dallas, TX 75201

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SEP 0 8 2003

OFFICE OF PETITIONS

In re Application of : DECISION GRANTING
Northrop, Harper, and Weinberg : PETITION UNDER
Application No. 10/372,489 : 37 CFR 1.47
Filed: February 21, 2003 :
Attorney Docket No. 26937 84356 :
For: SELF-CLEANING LITTER BOX :

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 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

#11

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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FROM DIRECTORS OFFICE

AUG 17 2004

TECHNOLOGY CENTER 3600

Roy W. Hardin
Locke Liddell & Sapp, LLP.
2200 Ross Ave., Ste. 2200
Dallas, TX 75201

In re Application of :
Melaney Northrop et al. :
Application No. 10/372,489 :
Filed: February 21, 2003 :
For: SELF-CLEANING LITTER BOX :

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on applicants' petition to withdrawal the holding of abandonment filed on July 20, 2004.

The petition is **GRANTED** in view of the following evidence of timely filing :

☒ Postcard receipt being dated December 19, 2003.

☐ USPTO return facsimile receipt dated _____, which references the application by serial number and the amendment that was filed on that date.

☐ Certificate of Mailing/Transmission signed on _____. and supported by a statement under 37 C.F.R. 1.8(b)(3).

☐ Hand Delivery Receipt of the specific documents submitted dated _____.

☐ Certificate of Transmission of CPA under 37 C.F.R. 1.6 filed on _____.

☐ Express Mail Receipt under 37 C.F.R. 1.10 dated _____.

This application is being forwarded to the Supervisory Legal Instruments Examiner for entry of the response filed with the petition, then to the examiner for prompt action on the response.

SNM/vdb: 8/11/04

STEVEN N. MEYERS
SPECIAL PROGRAM EXAMINER
TECHNOLOGY CENTER 3600

UNITED STATES PATENT AND TRADEMARK OFFICE

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AUG 1 2003

#3

OSTROLENK, FABER, GERB & SOFFEN, LLP
1180 AVENUE OF THE AMERICAS
NEW YORK, NY 10036-8403

In re Application of	:	
Henry J. Louw	:	
Serial No.: 10/372,509	:	DECISION ON PETITION
Filed: February 21, 2003	:	
For: Elongated Pinch-Grip Hanger	:	

This is in response to applicants' petition filed June 27, 2003, to make the above-identified application special under the provisions of 37 CFR 1.102(d), based on infringement.

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, II. 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

Commissioner for Patents
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JEREMY K. MCKOWN
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

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DEC 0 9 2005

OFFICE OF PETITIONS

In re Application of
BUSSOLARI et al.
Application No. 10/372,517
Filed: February 24, 2003
Attorney Docket No. ORT-1617 USA DIV1

DECISION
ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed November 14, 2005, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed April 29, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 30, 2005.

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

The instant petition does not satisfy the above requirement (3) since the statement was unsigned and is therefore unacceptable. See 37 CFR §§ 1.4(d)(1) and 33(b). The signed certificate of mailing or transmission only indicates Mr. McKown is certifying to the mailing or transmission.

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 $1020 extension of time fee submitted with the petition on November 14, 2005

was subsequent to the maximum extendable period for reply, petitioner may request a refund of this fee by writing to the following address: Mail Stop 16, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany petitioner's request.

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

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

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

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4787.

Denise Pothier
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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JAN 20 2006

OFFICE OF PETITIONS

JEREMY K. MCKOWN
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

In re Application of :
BUSSOLARI et al. :
Application No. 10/372,517 :
Filed: February 24, 2003 :
Attorney Docket No. ORT-1617 USA DIV1 :

DECISION
ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed December 21, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed April 29, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 30, 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 and a terminal disclaimer; (2) the petition fee of $1500; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final action of April 29, 2005 is accepted as having been unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $120 extension of time fee submitted with the petition on December 21, 2005 was subsequent to the maximum extendable period for reply, petitioner may request a refund of this fee by writing to the following address: Mail Stop 16, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany petitioner's request.

Additionally, a second petition fee of $750 and a second fee of $130 for the filing of the terminal disclaimer were charged to petitioner's deposit account for the renewed petition. These fees are unnecessary, and petitioner may request a refund of this fee by writing to the following address: Mail Stop 16, Commissioner for Patents, 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 undersigned at (571) 272-4787.

The application matter is being forwarded to Technology Center Art Unit 1614.

Denise Pothier

Denise Pothier
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 5

IBM CORPORATION
PERSONAL AND PRINTING SYSTEMS GROUP
LEGAL DEPARTMENT
DEPT. 9CCA/BLDG. 002-2
RESEARCH TRIANGLE PARK, NC 27709

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AUG 2 9 2003

OFFICE OF PETITIONS

In re Application of :
Walter A. Goodman et al :
Application No. 10/372,528 : DECISION GRANTING PETITION
Filed: August 16, 2001 :
Attorney Docket No. RPS9 2001 0031 :

This is a decision on the petition under 37 CFR 1.10(e), filed February 21, 2003 and supplemented on August 15, 2003, requesting that the above-identified application be accorded a filing date of August 16, 2001, rather than the presently accorded filing date of February 21, 2003.

Petitioner asserts that the original nonprovisional application papers were deposited in Express Mail service on August 16, 2001, in accordance with the procedure set forth in 37 CFR 1.10 and that the application is entitled to the date of deposit in Express Mail service as the filing date. In support, petitioner has supplied (1) a copy of the original application papers showing the Express Mail label No. EL326715904US thereon; (2) an Express Mail label, receipt No. EL326715904US, showing a Date-In of August 16, 2001; and (3) a stamped return post card which includes the above-mentioned Express Mail label number, attorney docket number of RPS9 2001 0031, and which acknowledges receipt thereof by the Office of Initial Patent Examination of the Express Mail package as of the "date-in" noted on the Express Mail label.

The originally submitted papers have not to date been located. However, the evidence submitted is sufficient to establish that the application papers were deposited by Express Mail on August 16, 2001.

In view of the above, the petition is granted.

Applicants should notify this office if the original nonprovisional papers are subsequently discovered in the U.S. Patent and Trademark Office so that the present duplicate file can be merged with the original papers.

The application is being returned to Initial Patent Examination Division for correction of the filing date to August 16, 2001 and mailing of a corrected Filing Receipt.

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

Brian Hearn
Senior 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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GARVEY SMITH NEHRBASS & NORTH, LLC
LAKEWAY 3, SUITE 3290
3838 NORTH CAUSEWAY BLVD.
METAIRIE LA 70002

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FEB 28 2006

OFFICE OF PETITIONS

In re Application of :
Raymond C. Davis :
Application No. 10/372,533 :
Filed: February 21, 2003 :
Attorney Docket No. A03042US(98744.1) :

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181, filed August 19, 2005, and resubmitted on August 22, 2005, to withdraw the holding of abandonment. The petition was recently forwarded to the Office of Petitions for a decision on the merits. The Office sincerely apologizes for any inconvenience.

On April 14, 2003, the Office mailed a Notice to File Corrected Application Papers (Notice), which set a two-month extendable period to submit replacement drawings. In the absence of timely reply, the Office mailed a Notice of Abandonment on May 26, 2004. On October 5, 2004, the Office mailed a Cover Letter For Resending Correspondence, stating that a courtesy copy of the Notice mailed on April 14, 2003 was enclosed, and that the time period for reply continued to run from the mail date of that Notice.

In the present petition, the attorneys for the applicant assert that they did not receive Notice to File Corrected Application Papers Office of April 14, 2003. Additionally, the attorneys state that applicant responded to the Notice to File Corrected Application Papers by submitting a copy of the Notice and replacement drawings on December 3, 2004, as evidenced by the date-stamped postcard receipt. See MPEP 503.

The attorneys for the applicant aver that a search of the file jacket and the docket records indicate that the Notice was not received until it was re-sent with a cover letter dated October 5, 2004. A copy of a docket sheet for this application, dated June 1, 2004, accompanies the petition. The attorneys explain that the Notice would have appeared on the docket sheet had attorneys received it because incoming USPTO mail is docketed after it is opened and before it is distributed to attorneys in the firm.

A review of the record indicates no irregularity in the mailing of the Notice, and in the absence of any irregularity in the mailing, there is a strong presumption that the Notice was properly mailed to the

address of record. This presumption may be overcome by a showing that the Notice was not in fact received. To establish non-receipt of an Office communication, applicant must include a statement from the practitioner, stating that the practitioner did not receive the Office communication and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.[1] For example, if a three-month period for reply was set in the non-received Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the non-received Office action must be submitted as documentary proof of non-receipt of the Office action. The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (*e.g.* if the practitioner has a history of not receiving Office actions).

After reviewing the documents submitted on petition, the Office concludes that the showing of record is sufficient to warrant withdrawal of the holding of abandonment. The attorneys for the applicant submitted a copy of the docket record where the Notice would have been entered had it been received and docketed. The attorneys attested to the fact that a search of the file jacket and docket records indicated that the Notice was not received. Furthermore, the attorneys provided an explanation of the docketing system. As applicant has presented the required showing, the petition to withdraw the holding of abandonment is **granted**.

This matter is being referred to Office of Initial Patent Examination.

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

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

[1] M.P.E.P. § 711.03(c); See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 7/10/07

TO SPE OF : ART UNIT 1621

SUBJECT : Request for Certificate of Correction on Patent No.: 6953812

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

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

Valerie Jackson

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 ext. 114

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

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

Comments:

DANIEL M. SULLIVAN, PH.D.
SUPERVISORY PATENT EXAMINER

1621
Art Unit

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NXP, B.V.
NXP INTELLECTUAL PROPERTY DEPARTMENT
M/S41-SJ
1109 MCKAY DRIVE
SAN JOSE, CA 95131

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AUG 0 4 2008

In re Application of	:	
DePerthuis et al.	:	
Application No. 10/372,545	:	DECISION ON PETITION
Filed: February 24, 2003	:	
Attorney Docket No. FR 020013	:	

This is a decision on the petition under 37 CFR 1.137(b), filed February 18, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Non-Compliant Amendment mailed December 20, 2006, which set a period for reply of one (1) month or thirty (30) days, whichever is longer. No extensions of time under the provisions of 37 CFR 1.136(a) were timely obtained. Accordingly, the above-identified application became abandoned on January 21, 2007. A Notice of Abandonment was mailed July 3, 2007.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a Specification Amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Non-Compliant Amendment mailed December 20, 2006 is accepted as having been unintentionally delayed.

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.

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, the authorization to charge an extension of time fee submitted with the petition on February 18, 2008 was subsequent to the maximum extendable period for reply and is therefore considered untimely. The fee will not be charged to petitioner's deposit account.

The $1,540.00 petition fee, however, will be charged to petitioner's deposit account as authorized.

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

The application file is being referred to Technology Center AU 2189 for appropriate action on the concurrently filed amendment.

Liana Walsh
Petitions Examiner
Office of Petitions

cc: Michael Ure
Useful Arts Intellectual Property Law
10518 Phil Place
Cupertino, CA 95014

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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SPRINT COMMUNICATIONS COMPANY L.P.
6391 SPRINT PARKWAY
KSOPHT0101-Z2100
OVERLAND PARK, KS 66251-2100

Mail Date: 04/21/2010

Applicant	: Jeffrey D. MacLeod	: DECISION ON REQUEST FOR
Patent Number	: 7657010	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/372,563	: 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 **1675** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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ROHM AND HAAS COMPANY
PATENT DEPARTMENT
100 INDEPENDENCE MALL WEST
PHILADELPHIA, PA 19106-2399

Mail Date: 04/21/2010

Applicant	: Anton Georges El A'mma	: DECISION ON REQUEST FOR
Patent Number	: 7637961	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/372,567	: 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 **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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Caterpillar Inc.
Intellectual Property Dept. AB6490
100 N.E. Adams
Peoria, IL 61629-6490

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AUG 25 2006

OFFICE OF PETITIONS

In re Patent No. 6,959,732

Issue Date: November 1, 2005

Application No. 10/372,568

Filed: February 21, 2003

Attorney Docket No. **01-297**

ON PETITION

This is a decision on the "Request for Certificate of Correction under 37 CFR 1.323" filed May 30, 2006, which is being treated as a request under 37 CFR 3.81(b)[1] to correct assignee data on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **granted**.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3222. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

Deposit account 03-1129 will be charged $100.00 for the fee for the Certificate of Correction.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

[1] See *Official Gazette* of June 22, 2004.

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50 BROADWAY
NEW YORK NY 10004

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OFFICE OF PETITIONS

In re Application of :
Norio Tanifuji :
Application No. 10/372,584 : ON PETITION
Filed: February 24, 2003 :
Attorney Docket No. S004-4969 :

This is a decision on the petition, filed October 19, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on 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 (703) 305-8859.

The examiner of Technology Center AU 2863 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

---

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:112305

DATE : November 23, 2005

TO SPE OF : ART UNIT 1734

SUBJECT : Request for Certificate of Correction on Patent No.: 6,821,346

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: Christopher A. Fiorilla **Art Unit** 1734

UNITED STATES PATENT AND TRADEMARK OFFICE

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

AUG - 1 2005

MICHAEL E. SWARTZ
115 MAPLE ST.
MILROY PA

In re Application of
MICHAEL E. SWARTZ
Application No. 10/372,599
Filed: February 25, 2003
For: ATV LICENSE PLATE MOUNTING SYSTEM

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in response to applicant's petition to withdraw the holding of abandonment, filed in the United States Patent and Trademark Office (USPTO), on March 02, 2005.

The petition is **DENIED**.

A review of the file record indicates this application was held abandoned on January 24, 2005 for failure to respond to the Office Action mailed June 10, 2004. The Office Action set forth a three-month, extendable period in which to respond.

Applicant requests withdrawal of holding of abandonment as he contends that a response was timely filed by facsimile transmission on September 09, 2004 and that an additional copy of the response was deposited and mailed by certified mail by the United States Postal Service as first class mail on September 09, 2004.

Applicant provides a Certificate of Transmission, a Certificate of Mail and a Certified Mail receipt from the U.S. Postal Service as evidence of a September 09, 2004 response.

Petitioner's evidence of a timely filing based on Certificates of Transmission and Mailing are considered to be insufficient. In this regard, any petition to withdraw the holding of abandonment based upon a Certificate of Transmission or Mailing must include the following requirements:

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

(2) A statement under 37 CFR 1.8(b)(3) attesting to the personal knowledge of transmitting the original response on the date indicated on the Certificate of Mailing (see 37 CFR 1.8 and MPEP 512), by the person who signed the certificate.

The Certificates of Transmission and Mail are not acceptable evidence to accord the September 09, 2004 filing date to the copy of the response as they fail to fully identify the papers of the response they accompanied and thus fail to meet requirement (1) above. When a Certificate of Mail or Transmission is presented on a separate sheet, the sheet must fully identify the paper it accompanied. Without the proper identifying data, the Certificate of Mail or Transmission will not be acceptable evidence to accord the filing date of the original to the copy. MPEP 512.

Also the statement under 37 CFR 1.8(b)(3) attesting to the personal knowledge of sending the original response by Certificate of Transmission and Mailing on the date indicated on the certificate is unsigned and thus fails to meet requirement (2) above.

The Certified Mail receipt is not acceptable evidence to accord the September 09, 2004 filing date to the copy of the response, as there is nothing serving to identify exactly what was submitted on the Certified Mail receipt date, and thus no "tie-in" between the copy of the submission and the receipt date.

A copy of Guidelines on Submissions for Pro Se Applicants is attached to assist Applicant with any future submissions.

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

I. Unavoidable Delay

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

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

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

II. Unintentional Delay

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

If not previously filed, the reply to the outstanding Office action must accompany the petition to revive. The required items should be promptly submitted under a cover letter entitled "Petition to Revive."

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

By Mail: Deputy Commissioner of Patent Examination Policy
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 should be directed to the Office of Petitions Staff at (571) 272-3282.

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

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

SNM/rjc 07/22/05

ATTACHMENT: Pro Se Correspondence Guidelines.

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

CERTIFICATE OF MAILING

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

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

CERTIFICATE OF TRANSMISSION

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

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

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

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

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

FULBRIGHT & JAWORSKI L.L.P.
SUITE 2400
600 CONGRESS AVENUE
AUSTIN TX 78701-3271

COPY MAILED

FEB 25 2008

OFFICE OF PETITIONS

In re Application of :

COATES, John D. et al. :
Application No. 10/372,628 : DECISION ON PETITION
Filed: February 21, 2003 : TO WITHDRAW
Attorney Docket No. **SIUC:003US** : 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 05, 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 Steven Highlander on behalf of all attorneys of record who are associated. 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 Tredelle Jackson at 571-272-2783.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **JOHN COATES**
3445 BRIERTOWN COURT
WALNUT CREEK, CA 94598

cc: **JEFF MYERS**
SOUTHERN ILLINOIS UNIVERSITY AT CARBONDALE
RESEARCH DEVELOPMENT AND ADMINISTRATION
MAIL CODE 4709
CARBONDALE, IL 62901

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : July 30, 2007

TO SPE OF : ART UNIT 2611 Examiner Mohammad H. Ghayour

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/372,630 Patent No.: 7099404

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**.

Antonio Johnson
Certificates of Correction Branch
703-308-9390 ext. 111

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: The proposed Drawing is approved because it does not change the Scope of the Claim.

M. Ghayour
SPE

2611
Art Unit

10/372630

COPY

C:\NrPortbl\imanage\CMCSWEENEY\728041_1.DOC
JMS/cmm
July 12, 2007

PATENT APPLICATION
Attorney's Docket No.: 0050.1575-004

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patentee : William J. Dally Issued: August 29, 2006

Patent No.: 7,099,404 B2

Title: DIGITAL TRANSMITTER

OIPE IAP
JUL 16 2007
PATENT & TRADEMARK OFFICE

CERTIFICATE OF MAILING OR TRANSMISSION

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, or is being facsimile transmitted to the United States Patent and Trademark Office on:

7/12/07 Christina McSweeney
Date Signature

Christina McSweeney
Typed or printed name of person signing certificate

REQUEST FOR CERTIFICATE OF CORRECTION

Office of Publications
Certificate of Corrections Branch
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Certificate
JUL 18 2007
of Correction

Sir:

Pursuant to 35 U.S.C. § 255, we hereby request a Certificate of Correction be issued for the above-referenced U.S. Letters Patent for the following reasons. A Certificate of Correction is enclosed herewith.

The inverting bubble at the input of Gate 46 in Fig. 9 has been deleted. This correction is consistent with the informal drawings originally filed with the priority application 08/882,252 and corrects a draftsman's error in preparing the formal drawings. Please see the attached annotated Fig. 9 with the bubble being deleted circled in red. Also included is a clean drawing sheet showing corrected Fig. 9, including Fig. 10, which appears on the same sheet of drawings.

Patentee agrees to pay the required fee. Enclosed is a check in the amount of $100.

07/17/2007 MGEBREH1 00000018 7099404
01 FC:1811 100.00 OP

JUL 18 2007

Please charge any deficiency or credit any overpayment to Patentee's Attorney's/Agent's Deposit Account No. 08-0380. A copy of this letter is enclosed for accounting purposes.

Respectfully submitted,

HAMILTON, BROOK, SMITH & REYNOLDS, P.C.

By _____

James M. Smith
Registration No.: 28,043
Telephone: (978) 341-0036
Facsimile: (978) 341-0136

Concord, MA 01742-9133
Dated: 7/11/7

JUL 18 2007

Staple Here Only !

PRINTER'S TRIM LINE

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : **7,099,404 B2**
DATED : **August 29, 2006**
INVENTOR(S) : **William J. Dally**

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

In the drawings, sheet 6, Fig. 9, the inverting bubble at the input of Gate 46 in Fig. 9 has been deleted:

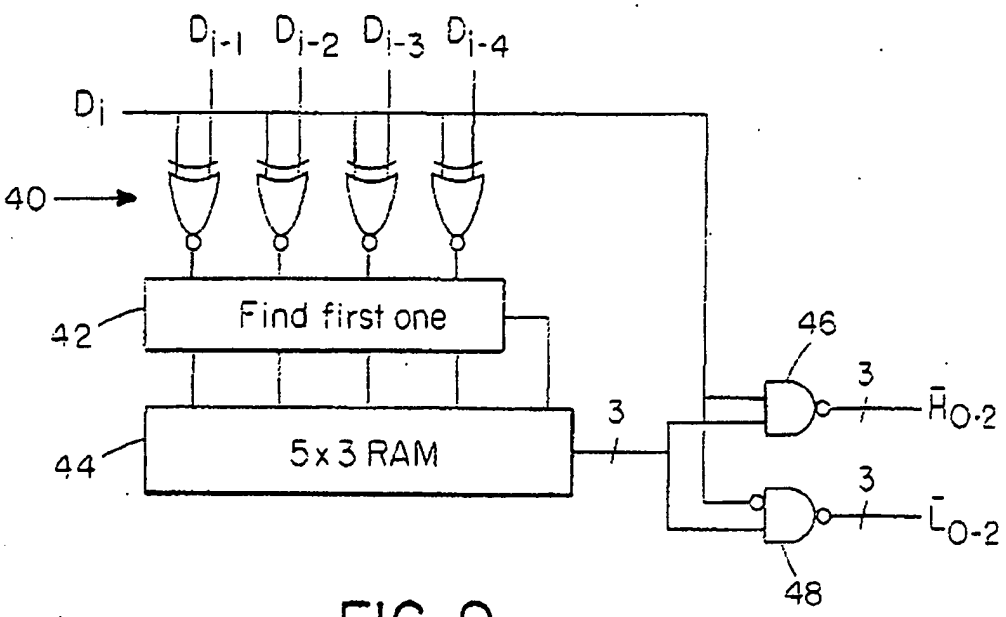

FIG. 9

MAILING ADDRESS OF SENDER:
021005
Hamilton, Brook, Smith & Reynolds, P.C.
530 Virginia Road, P.O. Box 9133
Concord, Massachusetts 01742-9133

PATENT NO. 7,099,404 B2

No. of add'l copies @ 50¢ per page

-0-

FORM PTO 1050 (Rev. 2-93)

JUL 18 2007

OIPE IAP
JUL 16 2007
PATENT & TRADEMARK OFFIC

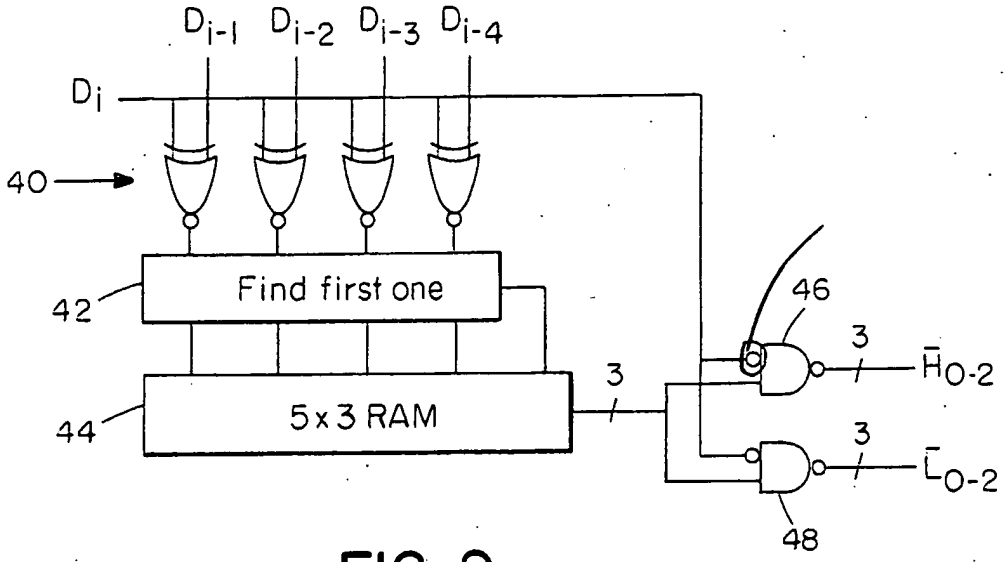

FIG. 9

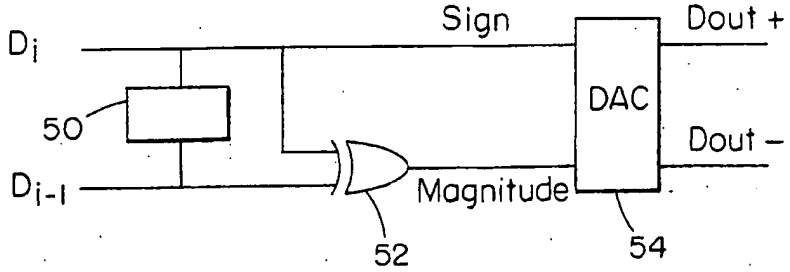

FIG. 10

JUL 18 2007

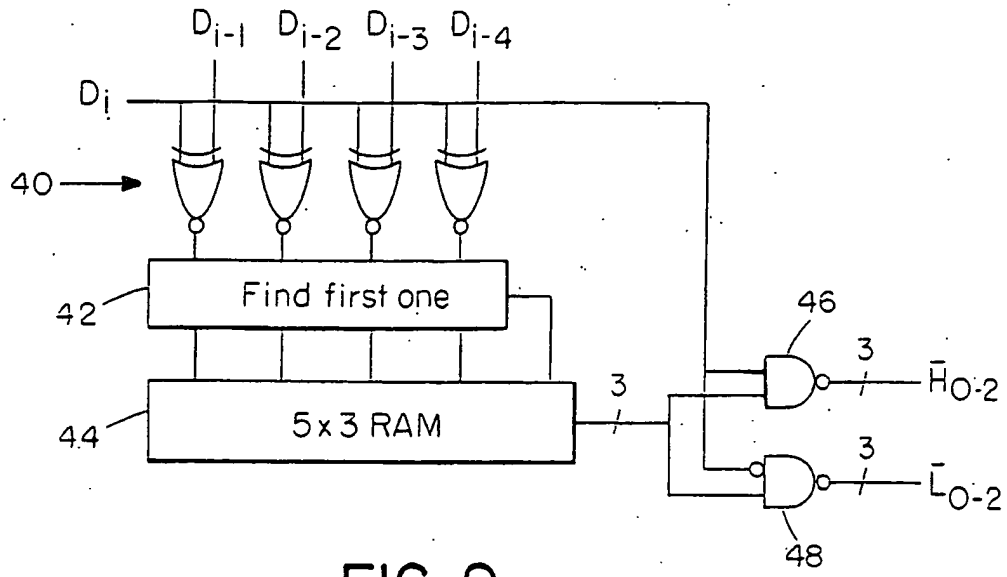

FIG. 9

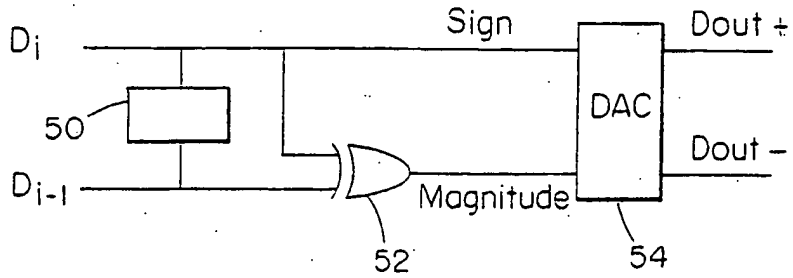

FIG. 10

JUL 18 2007

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: 01-04

Paper No: 6

HUMAN GENOME SCIENCES INC
14200 SHADY GROVE ROAD
ROCKVILLE MD 20850

COPY MAILED

JAN 2 9 2004

OFFICE OF PETITIONS

In re Application of:
Alderson, et al.
Filed: 27 May, 2003
Application No. 10/372,653
Docket No.: PF184P1D1

ON PETITION

This is a decision on the paper filed as a "Petition Under 37 C.F.R. §1.182" filed on 27 May, 2003, seeking to have accorded to the application "the date of receipt of the Response to Notice of Omitted Items in a Nonprovisional Application," to wit: 27 May, 2003, and considered under 37 C.F.R. §1.53.

The petition is **GRANTED**.

The application was deposited on 25 February, 2003.

On 1 May, 2003, the Office mailed a Notice of Omitted Items in a Nonprovisional Application, and indicated therein that "Figure(s) 3, described in specification" appeared to have been omitted. Petitioner also was informed that he could accept the application as filed, or seek either to: (a) have accorded to the entire application the filing date on which the omitted item was supplied, or (b) have a determination that the omitted item was present on filing.

Thereafter, on 27 May, 2003, in reply to that Notice, the instant petition under 37 C.F.R. §1.182 was filed--with fee, a copy of a document identified as Figure 3, and a signed Supplemental Declaration--to obtain a filing date consistent with the date of the filing of that petition/reply.

Therefore, the petition is **granted** to accord a filing date of 27 May, 2003, to the instant application.

The application is being returned to OIPE for further processing with a filing date of 27 May, 2003, using the 282 Pages of Specification (description, claims and abstract) and 5 sheets of drawings, all deposited on 25 February, 2003; and the Figure 3 (as described in the specification (description and claims) submitted with the instant petition on 27 May, 2003; and further with direction to OIPE to correct Office records to reflect that 282 pages of specification and 6 sheets of drawings were present on filing on 27 May, 2003; and forward to Petitioner a copy of the corrected filing receipt reflecting a filing date of 27 May, 2003, reflecting therein that 282 pages of specification (description and claims) and 6 sheets of drawings were present on filing.

Thereafter, the application will be considered by the examiner 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

Paper No. 4

VENABLE, BAETJER, HOWARD AND CIVILETTI, LLP
P.O. BOX 34385
WASHINGTON DC 20043-9998

COPY MAILED

FEB 13 2004

OFFICE OF PETITIONS

In re Application of :
Gluck and Kwon : DECISION REFUSING STATUS
Application No. 10/372,663 : UNDER 37 CFR 1.47(a)
Filed: 25 February, 2003 :
Attorney Docket No. 18652-186222 :

This is a decision on the petition under 37 CFR 1.47(a) filed on 9 December, 2003.

The petition is **DISMISSED**.

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

The above-identified application was filed on 25 February, 2003, without an executed oath or declaration. Accordingly, on 9 May, 2003, Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application, requiring the statutory basic filing fee, an executed oath or declaration, and a surcharge for its late filing. In response, on 9 December, 2003, petitioners submitted a five (5) month extension of time, along with a declaration naming Bruno Anthony Gluck and Hyo Sang Kwon as joint inventors and signed by joint inventor Kwon on behalf of himself and joint inventor Gluck, the statutory basic filing fee, the late filing surcharge, and the present petition.

Petitioners state that non-signing joint inventor cannot now be located. In support, petitioners have provided the declaration of Carol Ditterick, stating that she telephoned Gluck's last known address, but was told that he no longer resided there. Ms. Ditterick also utilized the Internet and Australian telephone

directory, but was unable to determine the location of joint inventor Gluck.

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

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

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

(3) the petition fee;

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

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

The petition lacks items (1).

In regards to item (1), petitioners have not shown that diligent efforts were made to locate the non-signing inventor.[1] At a minimum, petitioners must sent or give a copy of the application papers (specification, including the claims, drawings, if any, and the declaration) to the non-signing inventor at the inventor's last known address. Since Gluck was not sent or given a copy of the application, it cannot be presumed that he has refused or is unavailable to sign the declaration.

Petitioners should sent a copy of the application papers to Gluck at his last known address. If the letter sent to Gluck is not returned as undeliverable, it is presumed that the inventor received it and is not unavailable. As such, before a *bona fide* refusal can be shown, petitioners must provide proof that a copy of the application as filed was sent to Gluck, but that he either refused. orally or in writing, to sign the declaration or did not return it.

Petitioners may show diligent efforts to locate the non-signing inventor by providing a copy of an envelope showing that a letter sent to the last known address of the non-signing inventor was returned as undeliverable by the post office. Details of the efforts made to locate the non-signing inventor should be set forth in an affidavit or declaration of facts by a person having first-hand knowledge of the details. If a more recent address is

---

[1] MPEP 409.03(d).

discovered, petitioners should send or give a copy of the application papers to the inventor at that address.

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

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

Additionally, if a more recent last known address is discovered for joint inventor Gluck, that address must be provided with any renewed petition.

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

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

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

By hand:
U.S. Patent and Trademark Office
2011 South Clark Place
Customer Window
Crystal Plaza 2, Lobby, Room 1B03
Arlington, VA 22202

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

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov
DW 04-04

Paper No. 6

VENABLE, BAETJER, HOWARD AND CIVILETTI, LLP
P.O. BOX 34385
WASHINGTON DC 20043-9998

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APR 22 2004

OFFICE OF PETITIONS

In re Application of	:	
Gluck and Kwon	:	DECISION REFUSING STATUS
Application No. 10/372,663	:	UNDER 37 CFR 1.47(a)
Filed: 25 February, 2003	:	
Attorney Docket No. 18652-186222	:	

This is a decision on the renewed petition under 37 CFR 1.47(a) filed on 9 December, 2003.

The petition is again **DISMISSED**.

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

The above-identified application was filed on 25 February, 2003, without an executed oath or declaration. Accordingly, on 9 May, 2003, Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application, requiring the statutory basic filing fee, an executed oath or declaration, and a surcharge for its late filing. In response, on 9 December, 2003, petitioners submitted a five (5) month extension of time, along with a declaration naming Bruno Anthony Gluck and Hyo Sang Kwon as joint inventors and signed by joint inventor Kwon on behalf of himself and joint inventor Gluck, the statutory basic filing fee, the late filing surcharge, and the present petition. The petition filed on 9 December, 2003, was dismissed on 13 February, 2004.

Petitioners now assert that the non-signing inventor has been located and has been sent a copy of the oath or declaration.

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

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

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

(3) the petition fee;

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

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

The petition lacks items (1).

In regards to item (1), petitioners have not shown proof that a copy of the application papers have been sent or given to the non-signing inventor for review. If a last known address has been located for the non-signing inventor, and he is receiving mail at that address, he is no longer unavailable. Therefore, a copy of the application papers must be sent to him at that address. While it is noted that the petition states that the "relevant application papers and declaration have been present to Glueck for his signature," it is unclear whether this statement is made with first-hand knowledge and whether Glueck signed or refused to sign the declaration.

Likewise, before a *bona fide* refusal can be alleged, petitioners must show that a copy of the application as filed was sent or given to the non-signing inventor. If there is a written refusal, petitioners should supply a copy of that written refusal with any renewed petition. If the refusal was made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of facts.

With regard's to petitioner's assertion that non-signing inventor Gluck has changed his last name to Glueck, petitioners are reminded that the inventorship is determined by the executed oath or declaration. A petition under 37 CFR 1.182 to correct an inventor's name, accompanied by the requisite petition fee, must be filed if an inventor's name is not correctly spelled on the declaration. A new oath or declaration in compliance with 37 CFR 1.63 and 1.67 must be submitted with any renewed petition.

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

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

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

By hand: U.S. Patent and Trademark Office
2011 South Clark Place
Customer Window
Crystal Plaza 2, Lobby, Room 1B03
Arlington, VA 22202

As the present petition was filed more than two months after the mailing of the decision mailed on 13 February, 2004, a one (1) month extension of time fee is due and will be charged to counsel's deposit account, No. 22-0261.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DW May-05

Paper No. 10

VENABLE, BAETJER, HOWARD AND CIVILETTI, LLP
P.O. BOX 34385
WASHINGTON DC 20043-9998

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OFFICE OF PETITIONS

In re Application of	:	
Gluck and Kwon	:	DECISION ON PETITION AND
Application No. 10/372,663	:	DECISION ACCORDING STATUS
Filed: 25 February, 2003	:	UNDER 37 CFR 1.47(a)
Atty Dckt No. 18652-186222	:	

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, under 37 CFR 1.47(a), both filed on filed on 11 April, 2005.

The petition is granted.

PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

The application was held abandoned 23 June, 2004, for failure to file a timely reply to the Decision Refusing Status Under 37 CFR 1.47(a) mailed on 22 April, 2004, which set a two (2) month period for reply. Notice of Abandonment was mailed on 28 March, 2005.

Petitioners assert that a response was timely filed. In support, petitioners have provided a copy of a renewed petition under 37 CFR 1.47(a) and a two (2) month time extension asserted to have been filed on 20 August, 2004. Petitioners have also provided an itemized hand-stamped receipt bearing an "Office-date" stamp of 20 August, 2004, identifying the application by application number, invention title, first named inventor, and attorney docket number, and itemizing the filing of a request for

reconsideration under 37 CFR 1.47(a) and a two (2) month extension of time under 37 CFR 1.136(a) and extension of time fee.

A review of Office financial records further reveals that the two (2) month extension of time fee was received on 20 August, 2004. Additionally, a copy of the request for reconsideration under 37 CFR 1.47(a) and request for extension of time, both bearing an "Office-date" stamp of 20 August, 2004, have now been located.

Accordingly, the showing of record is that a response to the Office correspondence mailed on 22 April, 2004, was timely filed in the USPTO on 20 August, 2004, but was lost after receipt in the Office.

The petition complies with the requirements set forth in MPEP 1.8(b) and MPEP 503.

Accordingly, the holding of abandonment withdrawn. The Notice of Abandonment mailed on 28 March, 2005, was sent in error and is vacated.

PETITION UNDER 37 CFR 1.47(a)

Petitioners have shown that the non-signing inventor has refused to join in the filing of the above-identified application after having been sent a copy of the application papers. Specifically, petitioners have established, via the declaration of Charles William Tansey, that a copy of the application was sent to the non-signing inventor, Bruno Gluck. However, the non-signing inventor refused by letter dated 14 June, 2004, to sign the declaration naming him as a joint inventor along with Hyo Sang Kwon.

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

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition, not the Declaration. Notice of the filing of this application will also be published in the Official Gazette.

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

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW May-05

Bruno Gluck
3/81 West Esplanade
MANLY NSW 2095
AUSTRALIA

COPY MAILED

MAY 0 4 2005

OFFICE OF PETITIONS

In re Application of
Gluck et al.
Application No. 10/372,663
Filed: 25 February, 2003
For: ALKYLPOLYGLUCOSIDES CONTAINING DISINFECTANT COMPOSITIONS ACTIVE AGAINST PSEUDOMONAS MICROORGANISM

Dear Mr. Gluck:

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 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).

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

VENABLE, BAETJER, HOWARD AND CIVILETTI, LLP
P.O. BOX 34385
WASHINGTON DC 20043-9998

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

LIPSITZ & MCALLISTER, LLC
755 MAIN STREET
MONROE, CT 06468

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JAN 14 2009

In re Patent No. 6,863,373 :
Issue Date: March 8, 2005 :
Application No. 10/372,677 : NOTICE
Filed: February 24, 2003 :
Patentee(s): Stephen R. Payne :

This is a Notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28, filed on November 21, 2008.

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**. Therefore, status as a small entity has been removed and all future fees paid must be submitted at the large entity rate.

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

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER OF PATENTS

December 22, 2004

Horst M. Kasper
13 Forest Drive
Warren, N.J. 07059

In re Application of:
Joseph Rizza
Serial No: 10/372,688
Filing Date: February 24, 2003
For: DEVICE FOR ATTACHING TO A TREE AND STABILIZING A BOWMAN ATTACHED THERETO WHO IS HUNTING GAME

In response to the petition received August 5, 2004, to withdraw the holding of abandonment in the above application.

The petition is Granted

The above-identified application became abandoned for failure to reply with the meaning of 37 C.D.R 1.113 in a timely manner to the Notice to File Corrected Application Papers mailed May 9, 2003. Which set forth a shortened statutory period for reply of two months. Accordingly, the above-identified application became abandoned July 10, 2003.

The evidence submitted is sufficient to establish that the petitioners never received the Notice to File Corrected Application Papers mailed on May 9, 2003.

The office regrets any inconvenience this may have caused the client.

The application will be completed with the documents received on August 5, 2004 for release to Technology Center 3634.

Telephone inquiries concerning this application may be directed to Doshie E. Day (703) 308-3640.

Doshie Day

Doshie E. Day
Program Management Assistant
Office of Initial Patent Examination

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER OF PATENTS

December 22, 2004

Horst M. Kasper
13 Forest Drive
Warren, N.J. 07059

In re Application of:
Joseph Rizza
Serial No: 10/372,688
Filing Date: February 24, 2003
For: DEVICE FOR ATTACHING TO A TREE AND STABILIZING A BOWMAN ATTACHED THERETO WHO IS HUNTING GAME

In response to the petition received August 5, 2004, to withdraw the holding of abandonment in the above application.

The petition is Granted

The above-identified application became abandoned for failure to reply with the meaning of 37 C.D.R 1.113 in a timely manner to the Notice to File Corrected Application Papers mailed May 9, 2003. Which set forth a shortened statutory period for reply of two months. Accordingly, the above-identified application became abandoned July 10, 2003.

The evidence submitted is sufficient to establish that the petitioners never received the Notice to File Corrected Application Papers mailed on May 9, 2003.

The office regrets any inconvenience this may have caused the client.

The application will be completed with the documents received on August 5, 2004 for release to Technology Center 3634.

Telephone inquiries concerning this application may be directed to Doshie E. Day (703) 308-3640.

Doshie E. Day
Program Management Assistant
Office of Initial Patent Examination

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Caterpillar Inc.
Intellectual Property Dept. AB6490
100 N.E. Adams
Peoria IL 61629-6490

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MAR 2 6 2007

OFFICE OF PETITIONS

In re Patent No. 6,997,159 :
Issued: 14 February, 2006 :
Application No. 10/372,692 : ON PETITION
Filed: 21 February, 2003 :
Attorney Docket No. 01-299 :

This is a decision on the petition filed on 3 May, 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**.

It is noted that although the assignment document itself correctly captions the assignees' names, the Recordation Form Cover Sheet miscaptions an assignee's name as "Caterpillar, Inc. Patent Department." Therefore, it is recommended that petitioners submit a corrected cover sheet in accordance with MPEP 323.01 and 37 CFR 3.34.

The fee for the request under 37 CFR 3.81(b) of $130.00 will be charged to counsel's deposit account as authorized.

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.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

[1] See Official Gazette of 22 June, 2004.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ANTONELLI TERRY STOUT AND KRAUS LLP
1300 N 17TH ST STE 1800
ARLINGTON, VA 22209

MAILED

MAR 06 2009

OFFICE OF PETITIONS

In re Application of	:	
Charles Raymond Smith, III, et. al.	:	
Application No. 10/372,705	:	DECISION ON PETITION
Filed: February 25, 2003	:	TO WITHDRAW
Attorney Docket No. 23952-0093	:	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 29, 2005.

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

A review of the file record indicates that the power of attorney to ANTONELLI TERRY STOUT AND KRAUS LLP has been revoked by the assignee of the patent application on May 30, 2006. Accordingly, the request to withdraw under 37 CFR 1.36(b) is moot.

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

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

Carl Friedman
Petitions Examiner
Office of Petitions

cc: SUTHERLAND II
SUTHERLAND, ASBILL & BRENNAN, LLC
999 PEACHTREE STREET
ATLANTA GA 30309

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20100108

DATE : January 08, 2010

TO SPE OF : ART UNIT 1621

SUBJECT : Request for Certificate of Correction on Patent No.: 7351844

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

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

Thank You For Your Assistance **Certificates of Correction Branch**

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

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

/DANIEL M SULLIVAN/
Supervisory Patent Examiner.Art Unit 1621

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.
10/372730	2/24/03	Jacobsen et al.	21132

EXAMINER	
D. Sullivan	
ART UNIT	PAPER NUMBER
1636	1005

DATE MAILED:

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

☐ Delay in Prosecution Held Unavoidable (35 U.S.C. 133),

Petition Granted _____

☐ Delayed Payment of Issue Fee Accepted (35 U.S.C. 151),

Petition Granted _____

☒ Petition Granted Petition to accept color drawings 37 CFR 1.84(a)(2)

☐ Petition Denied _____

☐ Petition Dismissed _____

By direction of the Deputy
Assistant Commissioner for Patents

_____

Remy Yucel

REMY YUCEL, PH.D
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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

WILLIAMS, MORGAN & AMERSON
10333 RICHMOND, SUITE 1100
HOUSTON TX 77042

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OFFICE OF PETITIONS

In re Application of	:	
La Spisa, Michael	:	
Application No. 10/372,737	:	ON PETITION
Filed: February 24, 2003	:	
Attorney Docket No. 2100.011900/La Spisa 1	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 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 RCE and an Amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

This matter is being referred to Technology Center 2600 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

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

Liana Chase
Petitions Examiner
Office of Petitions

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

Buckley, Maschoff & Talwalkar LLC
Five Elm Street
New Canaan, CT 06840

Paper No. 9

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OFFICE OF PETITIONS

In re Application of
ST. GEORGE et al.
Application No. 10/372,760
Filed: February 24, 2003
Attorney Docket No. O01.003

DECISION
ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed May 26, 2005, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to reply in a timely manner to a Notice to File Missing Parts of Nonprovisional Application (Paper No. 2) mailed March 28, 2003, which set a period for reply of two (2) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on May 29, 2003.

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

The instant petition lacks a properly signed oath or declaration in compliance with 37 CFR 1.63. Section (b)(1) of 37 CFR 1.63 requires the declaration to identify the application to which it is directed. The declaration filed refers to "[t]he attached application" when no application has

been attached with the petition. Additionally, section (c)(1) requires the declaration to identify for each inventor the mailing address and the residence if an inventor lives at a location different from where the inventor customarily receives mail. The information required by 37 CFR 1.63(c)(1) can be supplied on an application data sheet in accordance with 37 CFR 1.76. No oath or declaration in compliance with 37 CFR 1.63 or an application data sheet in compliance with 37 CFR 1.76 has been filed with this application.

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

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

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

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

Telephone inquiries concerning this decision should be directed to Denise Pothier at (571) 272-4787.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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KURT M. MASCHOFF
BUCKLEY, MASCHOFF & TALWALKAR LLC
FIVE ELM STREET
NEW CANAAN, CT 06840

Paper No. 11

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OCT 0 3 2005

OFFICE OF PETITIONS

In re Application of :
ST. GEORGE et al. :
Application No. 10/372,760 :
Filed: February 24, 2003 :
Attorney Docket No. O01.003 :

DECISION
ON PETITION

This is a decision on a renewed petition under 37 CFR 1.137(b), filed September 12, 2005 (certificate of mailing of September 9, 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 a Notice to File Missing Parts of Nonprovisional Application mailed March 28, 2003, which set a shortened statutory period for reply of two (2) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on May 29, 2003.

The renewed petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of (a) the basic filing fees; (b) a properly executed declaration, (c) the late declaration surcharge fee of $65, and (d) replacement drawings in compliance with 37 CFR 1.84 and 37 CFR 1.121; (2) the petition fee of $750; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice to File Missing Parts of Nonprovisional Application of March 28, 2003 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Denise Pothier at (571) 272-4787.

The application matter is being forwarded to Office of Initial Patent Examination.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, DC 20231

5/27/09

Patent No. :6922246
Inventor(s) :Nilson et al.
Issued : 7/26/2005
Title : BOTTOM FLUORESCENCE ILLUMINATION ASSEMBLY FOR AN IMAGING APPARATUS
Atty.doc./File No.

Request for Certificates of Correction

Consideration has been given to your request for the issuance of a Certificate of Correction, for the above – identified patent under the provisions of CFR 1.322.

Inspection of the application for the patent reveals item 63 and col.1, 9 and 11 is printed in accordance with the record and please show evidence of an amendment or document. Therefore being no fault on the Patent and Trademark Office, It has no authority to issue a certificate of correction under the provision of 1.322.

In view of the forgoing, your request in this matter, is hereby denied.

Future written correspondence concerning this matter should be filed and directed to Decisions & Certificates of Correction Branch.

Henry Randall
Mary Diggs
Decisions & Certificates
of Correction Branch
(703) 308-9390 Ext. 108

Justin A. White
BEYER LAW GROUP LLP
P.O. BOX 1687
Cupertino, CA 95015

HR/MD

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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RABIN & Berdo, PC
1101 14TH STREET, NW
SUITE 500
WASHINGTON DC 20005

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JUN 0 3 2008

OFFICE OF PETITIONS

In re Application of :
Chia T. CHUANG et al. :
Application No. 10/372,767 : DECISION ON PETITION
Filed: February 26, 2003 :
Attorney Docket No. **CHUANG13** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 06, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, September 27, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on December 28, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1540, and (3) a proper statement of unintentional delay. Accordingly, the reply to the non final Office Action of September 27, 2006 is accepted as having been unintentionally delayed.

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is not a correct reading of the statement appearing in the petition.

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

date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

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

This application is being referred to Technology Center AU 2193 for appropriate action on the concurrently filed amendment.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

OIPE
FEB 06 2008
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Examiner: Tan V. MAI
Group Art Unit: 2193

In Re Patent Application of:

Applicants:	Chia Ting CHUANG et al.	)
Serial No.:	10/372,767	)
Filed:	February 26, 2003	) **PETITION UNDER 37 CFR §1.137 (b)**
		) **FOR REVIVAL OF APPLICATION**
For:	CALCULATING DEVICE CAPABLE OF DISPLAYING CONSTANTS AND METHOD THEREOF	) **ABANDONED UNINTENTIONALLY**
Atty Docket:	LIE 284	)

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

Sir:

The above-identified application became abandoned for failure to timely respond to the Office Action dated September 27, 2006. A Notice of Abandonment was mailed on June 12, 2007.

Applicant hereby petitions for revival of this application. Submitted herewith are

1. Petition fee of $1,540.00
2. Copy of Notice of Abandonment
3. Amendment responding to the Office Action

STATE due date of
the rec §1.137(b),
was ur

File date for PET is 1/6/08
In PACM.
In IFW PET is 2/6/08
Correspondence Address Change

02/07/2008
01 FC:1453
Febru
Date

No. 23995

ALP/p

OIPE IAP42 FEB 06 2008 PATENT & TRADEMARK OFFICE

Kinpo : CE0083US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s) : Chia-Ting CHUANG, Pei-Chih CHEN

Serial No. : 10/372767

Filed : 2003-02-26 Group Art Unit: 2193

For : Calculating device capable of displaying constants and method thereof Examiner: MAI, TAN V

STATEMENT UNDER 37 CFR 3.73(b) AND REVOCATION OF POWER OF ATTORNEY AND APPOINTMENT OF NEW ATTORNEYS

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

Sir:

The undersigned hereby states under the provisions of 37 CFR 3.73(b) that _____

KINPO ELECTRONICS,INC. is the assignee of the entire right, title and interest in the patent application listed above by virtue of an assignment recorded in the Patent and Trademark Office, either the reel and frame of which is inserted here in parentheses (reel 014109, frame 0736) or a copy of which is attached hereto.

As the assignee of the entire right, title and interest in the application above-listed and confirmed above under the provisions of 37 CFR 3.73(b), I hereby revoke all powers of attorney heretofore given by the applicant(s) and appoint the Practitioners at the law firm RABIN & BERDO, PC, including Steven M. Rabin (Reg. No. 29,102), Robert H. Berdo, Jr. (Reg. No. 38,075), Phillip G. Avruch (Reg. No. 46, 076), Allen Wood (Reg. No. 28,134) and Nicholas S. Bromer (Reg. No. 33,478), to prosecute the above-identified application and to transact all business in the Patent and Trademark Office connected therewith. All telephone calls should be directed to (202)371-8976.

Please send all correspondence to:

23995
23995
Patent Trademark Office

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

Signature Jack Chang

DEC. 26. 2007
Date

JACK CHANG.
Print or type name

Executive Vice President
Title

RAM Fee History Query

Revenue Accounting and Management

Name/Number: 10372767 Total Records Found: 3

Start Date: Any Date End Date: Any Date

Accounting Date	Sequence Num.	Fee Type	Fee Code	Fee Amount	Mailroom Date	Payment Method
02/07/2008	00000006	1	1453	$1,540.00	02/06/2008	CC
05/29/2003	00000346	1	8021	$40.00	05/28/2003	CC
02/28/2003	00000075	1	1001	$750.00	02/26/2003	CC

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

COPY MAILED
MAY 03 2004
OFFICE OF PETITIONS

In re Application of
Felix Cheung, et al :
Application No. 10/372,778 : ON PETITION
Filed: February 26, 2003 :
Attorney Docket No. 1875.1330002 :

This is a decision on the petition under 37 CFR(c)(2) to withdraw the above-identified application from issue after payment of the issue fee, filed April 26, 2004.

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, March 12, 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 2817 for further processing of the request for continued examination under 37 CFR 1.114.

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 05/24/06

TO SPE OF : ART UNIT 2852

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/372789 Patent No.: **6947678**

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

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

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

Angela Green

Certificates of Correction Branch

703-308-9390 ext. 123

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

_____

_____

_____

_____

DAVID E. [illegible]
PRIMARY EXAMINER

SPE

2852

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. None

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

COPY MAILED
MAR 12 2004
OFFICE OF PETITIONS

In re Application of :
Kazuhiro Odahara et al. :
Application No. 10/372,792 : DECISION ON PETITION
Filed: February 26, 2003 :
Attorney Docket No. Q74290 :
Title: TRANSMISSION GEAR :
APPARATUS FOR MOTOR VEHICLE :

This is a decision on the petition filed September 2, 2003, requesting the application, including three (3) sheets of drawings, be accorded a filing date of February 26, 2003 as part of the original disclosure.

The application was deposited on February 26, 2003. However, on April 2, 2003, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Incomplete Nonprovisional Application" (Notice), stating that the application had NOT been accorded a filing date, and advising applicants that the application was deposited without drawings, and a filing date would be accorded when the drawings were received.

In response, on September 2, 2003, applicants filed the present petition. The petition is further accompanied by a copy of three (3) sheets of drawings containing figures one through three (1-3), along with a copy of applicants' postcard receipt[1] acknowledging receipt of "Dwg. Sheets: 3"" in the United States Patent and Trademark Office (Office) on February 26, 2003. Applicants request that the application, including three (3) sheets of drawings, be accorded a filing date of February 26, 2003.

1 The Petitioner refers to this postcard receipt as a "filing receipt." The Office will presume this to be a typographical error.

Upon review of the record, the above-mentioned figures have not been located among the application papers. However, the evidence is convincing that the application papers deposited on February 26, 2003 included three (3) sheets of drawings, and these three (3) sheets of drawings were subsequently misplaced in the Office.

Therefore, the application, including three (3) sheets of drawings, was complete on filing and entitled to a filing date of February 26, 2003 as part of the original disclosure.

Accordingly, the petition is **GRANTED**.

The notice mailed April 2, 2003 was sent in error, and is hereby **VACATED**. Therefore, no petition fee is necessary. The petition fee of $130 will be refunded to petitioner's Deposit Account.

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of February 26, 2003, using the original application papers filed on that date, as well as the three (3) sheets of drawings submitted with the instant petition.

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

for D Wood

Jay Lucas
Interim Supervisory Patent Examiner
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. None

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

COPY MAILED
MAR 1 2 2004
OFFICE OF PETITIONS

In re Application of :
Kazuhiro Odahara et al. :
Application No. 10/372,792 : DECISION ON PETITION
Filed: February 26, 2003 :
Attorney Docket No. Q74290 :
Title: TRANSMISSION GEAR :
APPARATUS FOR MOTOR VEHICLE :

This is a decision on the petition filed September 2, 2003, requesting the application, including three (3) sheets of drawings, be accorded a filing date of February 26, 2003 as part of the original disclosure.

The application was deposited on February 26, 2003. However, on April 2, 2003, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Incomplete Nonprovisional Application" (Notice), stating that the application had NOT been accorded a filing date, and advising applicants that the application was deposited without drawings, and a filing date would be accorded when the drawings were received.

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Accordingly, the petition is **GRANTED**.

The notice mailed April 2, 2003 was sent in error, and is hereby **VACATED**. Therefore, no petition fee is necessary. The petition fee of $130 will be refunded to petitioner's Deposit Account.

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of February 26, 2003, using the original application papers filed on that date, as well as the three (3) sheets of drawings submitted with the instant petition.

Any inquiries related to this decision should be directed to the undersigned at (703) 305-0011.

for D Wood
Paul Shanoski
Attorney
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

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

KING & SPALDING LLP (SAIC CUSTOMER NUMBER)
ATTN: DAWN-MARIE BEY
1700 PENNSYLVANIA AVE, NW
SUITE 200
WASHINGTON, DC 20006

Mail Date: 07/13/2010

Applicant	: Thomas Wayne Schneider	: DECISION ON REQUEST FOR
Patent Number	: 7655477	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/372,799	: 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 **82** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/372,802	02/26/2003	Takashi Yoneyama	3709-0103P	2670

2292 7590 10/22/2004

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

EXAMINER	
SCHILLING, RICHARD L	

ART UNIT	PAPER NUMBER
1752	

DATE MAILED: 10/22/2004

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

10/21/04

In re Application of :
Takashi Yoneyama et al : NOTICE OF WITHDRAWAL
Serial No. 10/372,802 : FROM ISSUE
Filed: February 26, 2003 : UNDER 37 CFR 1.313(b)
For: PACKING MATERIAL FOR PHOTOGRAPHIC LIGHT-SENSITIVE MATERIAL AND PHOTOGRAPHIC LIGHT-SENSITIVE MATERIAL PACKAGE USING SAME

The above-identified application is withdrawn from issue after payment of the issue fee due to reopening of prosecution. See 37 CFR 1.313 (b).

The above-identified application is hereby withdrawn from issue.

The issue fee is refundable upon written request. If, however, the application is again found allowable, the issue fee can be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due upon written request. This request and any balance due must be received on or before the due date noted in the new Notice of Allowance in order to prevent abandonment of the application.

Telephone inquiries should be directed to at Cynthia Kelly (571) 272-1526.

The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

JStone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Birch, Stewart, Kolasch & Birch
P O Box 747
Falls Church, VA 22040-0747

cc: Allowed Files—Pk3-910

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MAR 21 2006

OFFICE OF PETITIONS

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

In re Application of :
Shigetaka Kinme et al :
Application No. 10/372,840 : ON PETITION
Filed: February 26, 2003 :
Attorney Docket No. 1560-0390P :

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 13, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 3676 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

---

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

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COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. _____

Date : March 21, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

COPY MAILED
MAR 21 2006
OFFICE OF PETITIONS

SUBJECT : Withdrawal from Issue of

Applicant(s) :Shigetaka Kinme et al
Application No. :10/372,840
Filed :February 26, 2003

The above-identified application has been assigned Patent No. 7,021,094 and an issue date of April 4, 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 April 4, 2006:

"All reference to Patent No. 7,021,094 to Shigetaka Kinme et al of Japan for LOCKING DEVICE FOR STEERING SHAFT AND STEERING APPARATUS HAVING THE DEVICE appearing in the Official Gazette of April 4, 2006 should be deleted since no patent was granted."

Karen Creasy

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12/13/06

TO SPE OF : ART UNIT 1723

SUBJECT : Request for Certificate of Correction on Patent No.: 7063788

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

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

Valerie Jackson

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 ext. 114

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

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

Comments:

header and solid body are both equivalent e.g. potting material

[signature]
SPE

1723
Art Unit

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HUMAN GENOME SCIENCES INC
INTELLECTUAL PROPERTY DEPT.
14200 SHADY GROVE ROAD
ROCKVILLE, MD 20850

COPY MAILED

AUG 0 8 2005

OFFICE OF PETITIONS

In re Application of :
Duan, et al. : DECISION ON APPLICATION FOR
Application No. 10/372,874 : PATENT TERM ADJUSTMENT
Filed: February 26, 2003 :
Atty. Dkt. No.: PF388P1D1 :

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)," filed May 26, 2005.

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

The Office will adjust the PAIR screen to reflect that the Patent Term Adjustment (PTA) determination at the time of mailing of the Notice of Allowance and Issue Fee Due reflects an applicant delay of zero days. A copy of the updated PAIR screen showing the correct determination is enclosed.

A Notice of Allowance in the above-identified application was mailed March 21, 2005. The Determination of Patent Term Adjustment indicated a PTA of 178 days as of the time of Allowance. The adjustment of 221 days under 37 CFR 1.702(a)(1) was reduced 43 days in connection with the submission of a supplemental response on February 3, 2005.

Applicants argue that the reduction of 43 days is in error because the supplemental response submitted February 3, 2005 was submitted upon the request of the examiner.

The record of proceedings in this matter supports applicants' contention that the supplemental response was expressly requested by the examiner. In accordance with 37 CFR 1.704(c)(8), a supplemental response that has been expressly requested by the examiner does not constitute a failure by applicant to engage in reasonable efforts to conclude prosecution. Therefore, the 43 day reduction indicated in PAIR system is in error, as argued by applicants.

In view thereof, the period of patent term adjustment is 221 days, as argued by applicants.

Receipt is hereby acknowledged of the required application fee of $200.00.

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

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

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

Enclosure: Copy of Adjustment PAIR Calculation

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Paper No. 9

Thomas P. Liniak
Liniak, Berenato & White
6550 Rock Spring Drive - Ste. 240
Bethesda, MD 20817

COPY MAILED

NOV 0 8 2004

OFFICE OF PETITIONS

In re Application of :
Kamran Loghman-Adham :
Application No. 10/372,888 : ON PETITION
Filed: February 26, 2003 :
Attorney Docket No. 7308-140 :

This is a decision on the petition under 37 CFR 1.137(b), filed August 27, 2004, to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed February 2, 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 after midnight May 2, 2004.

In response, petitioner submitted with the instant petition $665 for the petition to revive fee, an Amendment, and a Terminal Disclaimer along with the $55 filing fee for such.

The petition is **GRANTED**.

The application file is being forwarded to Technology Center Art Unit 3754, 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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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SEYFARTH SHAW LLP
131 S. DEARBORN ST., SUITE 2400
CHICAGO, IL 60603-5803

Mail Date: 04/21/2010

Applicant	: Hardy Lee Crumby	: DECISION ON REQUEST FOR
Patent Number	: 6790143	: RECALCULATION of PATENT
Issue Date	: 09/14/2004	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/372,902	: OF WYETH
Filed	: 02/24/2003	:
		:

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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FREDERICK D. BAILEY
ANTONELLI, TERRY, STOUT, & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON, VA 22209-9889

MAILED

NOV 19 2004

Technology Center 2100

In re Application of: Mimatsu, et al.
Application No. 10/372,913
Filed: February 26, 2003
For: CONNECTING DEVICE OF STORAGE DEVICE AND COMPUTER SYSTEM INCLUDING THE SAME CONNECTING DEVICE

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

This is a response to the petition filed June 28, 2004, under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **DISMISSED**.

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

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

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

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

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

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

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

In those instances where the request for this special status does not meet all the prerequisites set forth above, **petitioner will be notified and the defects in the request will be stated.** The application will remain in the status of a new application awaiting action in its regular turn. In those instances where a request is defective in one or more respects, petitioner will be given one opportunity to perfect the request in a renewed petition to make special. If perfected, the request will then be granted. If not perfected in the first renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Group Special Program Examiner.

The petition filed June 28, 2004 fails to adequately meet requirement (c), (d) and (e) of the criteria set forth above.

With respect to requirement (c), petitioners state, "Applicants hereby submit that a pre-examination search has been made by a professional searcher, (***a copy of which is attached***)...". Petitioner's submission is deficient in that no copy of the search report was submitted to the office, as asserted by Petitioner.

With respect to requirement (d), petitioners state, "A listing of all references found by the professional searcher is provided by a Form PTO-1449 and ***copies of*** the references and ***the Form PTO-1449 are submitted*** as part of an Information Disclosure Statement (IDS) filed on even date." Petitioner's submission is deficient in that Form PTO-1449 has not been submitted to the office, as asserted by Petitioner.

Petitioner should provide a copy of the search report as well as the 1449 information disclosure statement. The petitioner is reminded that unless the prior art in cited on an IDS (PTO Forms 1449 or 892), the Examiner may not have considered the references found in this petition.

With respect to requirement (e), a complete detailed discussion of the (aforementioned most closely related) references has not been provided with the necessary specificity required under 37 CFR 1.111 (b) and (c). Petitioner's submission is deficient in that it alleges that the prior art of record does not disclose certain features. However, at least one feature, namely, "converting the instruction to a protocol unique to the disk volumes...", is not recited in at least independent claims 1 and 9. That is, the submission does not satisfy the requirement, as it does not point out how the ***claimed subject matter is patentable over the references***.

Petitioner should ensure that the above discussion is directed to how the language of ***each of*** the independent claims is specifically distinguishable and patentable from the references provided in requirement (d) above.

Petition to Make Special **DISMISSED**.

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

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

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

HMJ: 11/17/04

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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MAR 2 4 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON, VA 22209-9889

In re Application of: MIMATSU, et al.
Application No. 10/372,913
Filed: February 26, 2003
For: CONNECTING DEVICE OF STORAGE DEVICE AND COMPUTER SYSTEM INCLUDING THE SAME CONNECTING DEVICE

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

This is a response to the Request for Reconsideration filed December 14, 2004, on the Petition to make Special under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, originally filed on June 28, 2004 and dismissed on November 19, 2004.

The Reconsideration of 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.

Reconsideration of Petition to Make Special **GRANTED** since all of the requirements for special status under MPEP § 708.02(VIII) have been met. Note, in order to expedite petition requests, future petitions should clearly identify, in the detailed discussion per requirement (e), each independent claim and its particular features of the invention being recited therein.

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 3/17/05
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

SDL: 03/15/05

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Paper No. 7

Genzyme Corporation
Legal Department
15 Pleasant St. Connector
Framingham, MA 01701-9322

COPY MAILED

JUN 25 2004

OFFICE OF PETITIONS

In re Application of :
George Vasios :
Application No. 10/372,917 : ON PETITION
Filed: February 21, 2003 :
Attorney Docket No. 5004C :

This is a decision on the petition under 37 CFR 1.137(b), filed February 23, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice mailed May 15, 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 July 16, 2003. A Notice of Abandonment was mailed on June 10, 2004.

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

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

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

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P.O. Box 1450
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MATTINGLY & MALUR, P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA, VA 22314

MAILED

OCT 26 2009

OFFICE OF PETITIONS

In re Patent No. 7,209,717 :
Issue Date : April 24, 2007 :
Application No. 10/372,919 : ON PETITION
Filed: February 26, 2003 :
Attorney Docket No. ASA-1113 :

This is a decision on the petition filed June 18, 2007, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to Diane Goodwyn at (571) 272-6735. 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.

/Thurman K. Page/

Thurman K. Page
Petitions Examiner
Office of Petitions

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 06/01/06

TO SPE OF : ART UNIT 2618

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/372922** Patent No.: **6992385**

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

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

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

Certificates of Correction Branch
703.308.9380 ext. 123

Thank You For Your Assistance

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

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

Comments: Applicant's request to correct foreign Application Priority Data is approved.

EDWARD F. URBAN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600
SPE

2618
Art Unit

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.
10/372,933	FEBRUARY 26, 2003	BAK ET AL.	018786/0134

EXAMINER	
BELL	
ART UNIT	PAPER NUMBER
1661	32

DATE MAILED:

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

☐ Delay in Prosecution Held Unavoidable (35 U.S.C. 133),

Petition Granted _____

☐ Delayed Payment of Issue Fee Accepted (35 U.S.C. 151),

Petition Granted _____

☒ Petition Granted to accept color photos.

☐ Petition Denied _____

☐ Petition Dismissed _____

By direction of the Deputy
Assistant Commissioner for Patents

_____

Bruce Campell

BRUCE R. CAMPELL, PH.D
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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FOLEY AND LARDNER
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

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SEP 15 2005

OFFICE OF PETITIONS

In re Application of	:	
Elly Bak et al	:	
Application No. 10/372,933	:	DECISION DISMISSING PETITION
Filed: February 26, 2003	:	UNDER 37 CFR 3.81(b)
Attorney Docket No. 018786-0134	:	

This is a decision on the petition, filed July 16, 2004, under 37 CFR 3.81(b)[1] to correct the assignee's name on Issue Fee Transmittal Form PTOL-85(b) so that the Letters Patent will issue to the assignee.

The request is **dismissed**.

Petitioner states that the correct assignee's name is **CORN.BAK B.V.** and that Applicants inadvertently failed to file the PTOL-85(b), and therefore, the proper assignees were not properly identified) at the time of payment of the issue fee. Accordingly, petitioner herein requests that the patent issue to ***CORN.BAK B.V.***.

37 CFR 3.81(b), effective June 25, 2004, reads:

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

---

[1] *See* Official Gazette of June 22, 2004

The instant request under 37 CFR 3.81(b) was not accompanied by a request for a certificate of correction (and fee) as required by 3.81(b). As petitioner has failed to comply with the provisions of 37 CFR 3.81(a), the request cannot be granted.

A review of Office database assignment records reflects that an assignment to **CORN.BAK B.V.** has been recorded. Therefore, upon submission of the required certificate of correction and fee, it would be appropriate for the Office to issue a certificate of correction to correct the front page of the Letters Patent to reflect that **CORN.BAK B.V.** was the assignee of record at the time of issuance of the instant application into a patent. *Note also* 35 U.S.C. § 152.

In view of the above and **after issuance of the instant application into a patent, the Certificates of Correction Branch is instructed to issue a certificate of correction upon submission by petitioner of a request for a certificate of correction (and fee) which sets forth CORN.BAK B.V., as the assignee**. *No certificate of correction will be issued which sets forth an assignee other than the assignee set forth in the instant request. A copy of this decision* ***must*** *accompany the request for a Certificate of Correction.*

No further renewed request under 37 CFR 3.81(b) is necessary for consideration by the Office of Petitions for issuance of a certificate of correction in the name of the assignee set forth in the instant request, as this decision operates as an instruction to the Certificates of Correction Branch to issue the requested certificate of correction.

Alternatively, if petitioner desires to have the correct assignee data appear on the front page of the Letters Patent, petitioner may wish to consider filing a petition to withdraw the subject application from issue under 37 CFR 1.313(c)(2). The petition to withdraw from issue under 37 CFR 1.313(c)(2) must be accompanied by a request for continued examination (RCE) and submission (which may be a request under 37 CFR 3.81(b)).

Inquiries concerning this decision should be directed to at (571) 272-3208. After the submission by petitioner of the request for a certificate of correction to correct the assignee data on the

front page of the Letters Patent, any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

Karen Creasy

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

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Foley & Lardner LLP
Suite 500
3000 K Street NW
Washington DC 20007

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NOV 28 2006

OFFICE OF PETITIONS

In re Application of
Bak et al.
Application No.10/372,933
Patent No. 6,965,064
Attorney Docket No. 018786-0134

:DECISION GRANTING PTA
:RECONSIDERATION

This decision is in response to patentees' REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705 TIMELY FILED ON January 5, 2005[1] requesting that the Office adjust the PTA at the time of the issuance of the patent from a determination of 0 days to a determination of 180 days.

Patentees' letter regarding PTA is **GRANTED-in-part.** The proper amount of PTA at the time of the issuance of the patent is 284 days. The Office will sua sponte issue a certificate of correction reflecting this determination. The Office will also correct the PAIR determination to reflect this decision.

Patentees are given 30-days or one month whichever is longer to respond to this decision. No extensions of time are granted under 37 CFR 1.136.

Patentees' assert that the Office made two errors in the determination of the PTA. 1) The Office failed to provide any additional PTA for the Office's failure to respond to the petition within four months of the submission of the petition. 2) The Office assessed no PTA reduction for the submission of a petition requesting that the patent issue in the name of the assignee.

Patentees' assertions are partially persuasive. Specifically, the Office notes that patentees assert that since the petition took more than four months, patentees violated 37 CFR 1.704(b). However, the Office is under no four-month requirement to respond to the petition within four months. Accordingly, the Office correctly did not assess a delay for this specific grounds. As for the assertion that the patentees delayed under 37 CFR 1.704(c)(10) by a period of 124 days, the Office notes that such delays are limited to 120-days. Patentees failed to assert however that the Office missed the requirement of 37 CFR 1.702(a)(4). The Office did not issue the patent within four months of the payment of the issue fee and all other requirements

[1]Patent Issued on November 15, 2005

being satisfied. Specifically, the Office missed the requirement by a period of 404 days.[2] Accordingly, the proper amount of PTA at the time of the issuance of the patent is 284 (404-120=284) days.

After the mailing of this decision, the patented file will be forwarded to the certificate of correction branch for a prompt issuance of a certificate of correction. The certificate of correction branch will issue the certificate of correction after the 30-day period has expired.

The Office has assessed the $200.00 fee. No additional fees are required in determining this request.

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

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

cc: PTA determination

Draft Certificate of correction

[2]Delay began on October 8, 2004 and ending on 11/15/2005, the issue date.

Day : Monday
Date: 11/27/2006

PALM INTRANET

Time: 12:12:53

PTA Calculations for Application: 10/372933			
Application Filing Date:	02/26/2003	PTO Delay (PTO):	0
Issue Date of Patent:	11/15/2005	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	0
Post-Issue Petitions:	0	Total PTA (days):	284
PTO Delay Adjustment:	284		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
37	11/27/2006	ADJUSTMENT OF PTA CALCULATION BY PTO	284		
32	11/15/2005	PATENT ISSUE DATE USED IN PTA CALCULATION			
31	10/05/2005	RECEIPT INTO PUBS			
30	10/05/2005	RECEIPT INTO PUBS			
29	10/04/2005	DISPATCH TO FDC			
28	10/04/2005	DISPATCH TO FDC			
27	10/04/2005	APPLICATION IS CONSIDERED READY FOR ISSUE			
26	10/04/2005	TC RETURN TO PUBS			
24	09/22/2005	RECEIPT INTO PUBS			
23	09/15/2005	PUBS CASE REMAND TO TC			
22	09/15/2005	PETITION DECISION - DISMISSED			
21	07/16/2004	PETITION ENTERED			
20	05/19/2005	RECEIPT INTO PUBS			
19	05/19/2005	RECEIPT INTO PUBS			
18	01/27/2005	WORKFLOW - QUERY REQUEST - FINISH			
17	07/16/2004	WORKFLOW INCOMING PETITION IFW			
16	06/07/2004	ISSUE FEE PAYMENT RECEIVED			
15	05/19/2004	WORKFLOW - QUERY REQUEST - BEGIN			
14	04/22/2004	WORKFLOW - FILE SENT TO CONTRACTOR			
13	03/16/2004	CASE DOCKETED TO EXAMINER IN GAU			
12	03/08/2004	MAIL NOTICE OF ALLOWANCE			
11	03/05/2004	ISSUE REVISION COMPLETED			
10	03/05/2004	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
9	03/05/2004	NOTICE OF ALLOWABILITY			

8	03/05/2004	PETITION FEE PAID			
7	05/15/2003	CASE DOCKETED TO EXAMINER IN GAU			
6	04/30/2003	APPLICATION DISPATCHED FROM OIPE			
5	04/28/2003	APPLICATION IS NOW COMPLETE			
2	03/13/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	02/26/2003	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back use Back button on your browser toolbar.

Back to PALM | ASSIGNMENT | OASIS | Home page

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT	:	6,965,064 B2
DATED	:	Nov. 15, 2005
INVENTOR(S)	:	Bak 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 (0) days

Delete the phrase "by 0 days" and insert – by 284 days--

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ARENT FOX KINTNER PLOTKIN & KAHN
1050 CONNECTICUT AVENUE, N.W.
SUITE 400
WASHINGTON, DC 20036

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NOV 1 8 2003

OFFICE OF PETITIONS

In re Application of :
Ono :
Filed: February 26, 2003 : ON PETITION
Application No. 10/372,941 :
Atty. Dkt. No.: : 024016-00049 :

This decision is in response to the "RESPONSE TO NOTICE OF OMITTED ITEM(S)", filed June 4, 2003, requesting withdrawal of the Notice of Omitted Items(s) in a Nonprovisional Application ("Notice"). This response is being treated as a petition for withdrawal of Notice and accordance of a filing date of February 26, 2003.

The application was filed February 26, 2003. The Notice mailed April 4, 2003 by the Office of Initial Patent Examination indicated that the application had been accorded a filing date but that pages 64-68 appeared to have been omitted from the specification.

In response, the present petition was filed wherein petitioner argues that the application as deposited included pages 64-68 of the specification. Petitioner has included as proof of mailing and proof of receipt of the pages in question a return postcard date stamped by the Office on February 26, 2003. A copy of pages 64-68 of the specification purportedly filed with the application on February 26, 2003 was also supplied.

The original pages 64-68 of the specification have not been located. However, in view of the evidence presented, the petition for withdrawal of the Notice is GRANTED.

Since the original drawing sheets cannot be located in the Office, the copy of page 64-68 supplied with the instant petition will be used for examination purposes.

No petition fee is due in connection with this matter.

This application will be returned to the Office of Initial Patent Examination for further processing with a filing date of February 26, 2003.

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

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

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1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA VA 22314

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AUG 2 2 2008

OFFICE OF PETITIONS

In re Application of	:	
Kurakami et al.	:	
Application No. 10/372980	:	DECISION
Filing or 371(c) Date: 02/26/2003	:	ON PETITION
Patent No.: 7230997	:	
Issue Date: 06/12/2007	:	
Attorney Docket No.: ASA-1115	:	

This is a decision on the request for Request for Certificate of Correction Applicant's Mistake (37 CFR § 1.323), filed September 28, 2007, requesting correction of the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction. The request is properly treated as a petition under 37 CFR 3.81(b)[1].

The Petition is **granted**.

The petition was accompanied by a certificate of correction as required by 3.81(b), and the fee submitted with the present petition. Further, Office assignment records reflect that RENESAS TECHNOLOGY CORP., and TIPCOM LIMITED, are the assignees of record. As the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to be processed.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

This matter is being referred to the Certificates of Correction Branch for processing of a certificate of correction after issuance of this application into a patent.

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 070907

DATE : June 29, 2007

TO SPE OF : ART UNIT 2618

SUBJECT : Request for Certificate of Correction for Appl. No. 10/373020 patent no.7103337

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: ~~Needs to~~ correct printing error in Figure 3.

EDWARD F. URBAN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600 A.C.

SPE 2618 **Art Unit**

OIPE
JUN 06 2007
PATENT & TRADEMARK OFFICE

Approved.
cc. 7/5/07

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent No.: 7,103,337

Issue Date: September 5, 2006

Inventor: UOZUMI et al.

Title: PLL CIRCUIT HAVING A MULTI-BAND OSCILLATOR AND COMPENSATING OSCILLATION FREQUENCY

Docket No.: T&A-115

Customer No.: 24956

REQUEST FOR CERTIFICATE OF CORRECTION
APPLICANTS' MISTAKE (37 CFR §1.323)

June 6, 2007

Director of the U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Please issue a Certificate of Correction based on the attached Certificate of Correction form. The drawings filed with the application contained a draftsman's error in Fig. 3. Applicants are attaching a replacement Fig. 3 to correct the draftsman's error.

Since the Certificate of Correction is necessitated by an error on the part of the Applicants, in accordance with 37 CFR §1.20(a) our Credit Card Payment Form in the amount of $100.00 is attached in payment of the appropriate fee.

Certificate
JUN 11 2007
of Correction

06/07/2007 SZEWDIE1 00000100 7103337
01 FC:1811 100.00 OP

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Linda Gonzalez dba Douglas Industries
3374 Douglas Drive
Binghamton NY 13903

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FEB 0 6 2006

OFFICE OF PETITIONS

In re Application of	:	
Gonzalez, Linda Marie	:	
Application No. 10/373,034	:	ON PETITION
Filed: February 24, 2003	:	
Title: PORTABLE STAIR ASSEMBLY FOR PETS	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed January 3, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a Notice of Appeal (with requisite 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.

The Notice of Appeal filed January 3, 2006, has been entered and made of record. Accordingly, the 2-month period for filing the appeal brief accompanied by the fee required by law, runs from the date of this decision.

This matter is being referred to Technology Center 3600 for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282. Any further questions should be directed to the Technology Center.

Liana Chase
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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BROWN & MICHAELS, PC
400 M & T BANK BUILDING
118 NORTH TIOGA ST
ITHACA NY 14850

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SEP 15 2006

OFFICE OF PETITIONS

In re Application of :
Gonzalez :
Application No. 10/373,034 : DECISION ON PETITION
Filed: February 24, 2003 : TO WITHDRAW
Attorney Docket No. go1.1 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 23, 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 Michael F. Brown on behalf of all attorneys of record who are associated with customer No. 20808.

All attorneys/agents associated with the Customer Number 20808 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

There is an outstanding Office action mailed June 13, 2006 that requires a reply from the applicant.

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: Linda Marie Gonzalez
3374 Douglas Drive
Binghamton, NY 13903

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MAY 23 2007

OFFICE OF PETITIONS

LINDA MARIE GONZALEZ
3374 DOUGLAS DRIVE
BINGHAMTON NY 13903

In re Application of :
Linda Marie Gonzalez :
Application No. 10/373,034 : ON PETITION
Filed: March 24, 2003 :
Attorney Docket No. :

This is a decision in response to the petition to withdraw the holding of abandonment, filed April 9, 2007, which is being treated as a petition 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. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181". Extensions of time under 37 CFR 1.136(a) are permitted. No fee is required for a renewed petition.

The above-identified application became abandoned for failure to timely file a reply in response to the non-final Office action mailed June 13, 2006, which set an extendable period for reply of three (3) months. The prior month, on May 23, 2006, applicant's attorneys filed a Request for Withdrawal of Attorney. The request was granted in a decision mailed on September 15, 2006. A copy of the decision was mailed to applicant at the above address, and informed applicant on the June 13, 2006 Office action, and that the period for reply continued to run. No extensions of time having been purchased and no reply having been received, the application became abandoned on September 14, 2006. A Notice of Abandonment was mailed on January 18, 2007.

A petition to withdraw the holding of abandonment is only appropriate in those situations where an applicant is disputing that the application is even abandoned. Where an applicant is not disputing the abandonment of the application, but applicant's contentions involve the cause of the abandonment, then the appropriate remedy is to file a petition to revive under 37 CFR 1.137(a) on the basis of unavoidable delay, or 37 CFR 1.137(b) on the basis of unintentional delay.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the reply required to the outstanding Office action or notice, unless previously filed; (2) the petition fee set forth in 37 CFR 1.17(l) - currently $250 for a small entity; (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 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d).

A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by (1) The reply required to the outstanding Office action or notice, unless previously filed; (2) The petition fee as set forth in 37 CFR 1.17(m) - currently $750 for a small entity; and (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional.

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

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

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

Enc: PTO/SB/64 (2 pages)
PTO/SB/61 (3 pages)
Privacy Act Statement (1 page)

PTO/SB/64 (04-07)
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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Docket Number (Optional)

First named inventor:

Application No.: Art Unit:

Filed: Examiner:

Title:

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

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

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional.

1.Petition fee

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

☐ Other than small entity – fee $ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of _____(identify type of reply):

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

B. The issue fee and publication fee (if applicable) of $ _____.

☐ has been paid previously on _____.
☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

3. Terminal disclaimer with disclaimer fee

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

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

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

WARNING:

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

_____ Signature	_____ Date
_____ Typed or printed name	_____ Registration Number, if applicable
_____ Address	_____ Telephone Number
_____ Address	

Enclosures: ☐ Fee Payment

☐ Reply

☐ Terminal Disclaimer Form

☐ Additional sheets containing statements establishing unintentional delay

☐ Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

_____ Date	_____ Signature
	_____ Typed or printed name of person signing certificate

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

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)	Docket Number (Optional)

First Named Inventor: Art Unit:

Application Number: Examiner:

Filed:

Title:

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus any extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION.

NOTE: A grantable petition requires the following items:

(1) Petition fee.
(2) Reply and/or issue fee.
(3) Terminal disclaimer with disclaimer fee – required for all utility and plant applications filed before June 8, 1995, and for all design applications; and
(4) Adequate showing of the cause of unavoidable delay.

1. Petition fee

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

☐ Other than small entity – fee $_____ (37 CFR 1.17(l)).

2. Reply and/or fee

A The reply and/or fee to the above-noted Office action in the form of _____ (identify the type of reply):

☐ has been filed previously on _____ .

☐ is enclosed herewith.

B The issue fee of $ _____

☐ has been filed previously on _____ .

☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(a). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 8 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**
If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)

3. Terminal disclaimer with disclaimer fee

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

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

4. An adequate showing of the cause of the delay, and 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(a) was unavoidable, is enclosed.

WARNING:

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

_____ _____
Signature Date

_____ _____
Typed or printed name Registration Number, if applicable

_____ _____
Address Telephone Number

_____
Address

Enclosure ☐ Fee Payment

☐ Reply

☐ Terminal Disclaimer Form

☐ Additional sheets containing statements establishing unavoidable delay

☐ _____

CERTIFICATE OF MAILING OR TRANSMISSION (37 CFR 1.8(a))

I hereby certify that this correspondence is being:

☐ deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to **Mail Stop Petition**, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

☐ transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

_____ _____
Date Signature

_____
Typed or printed name of person signing certificate

PTO/SB/61 (04-07)
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PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)

NOTE: The following showing of the cause of unavoidable delay must be signed by all applicants or by any other party who is presenting statements concerning the cause of delay.

Signature	Date
Typed or printed name	Registration Number, if applicable

(In the space provided below, please explain in detail the reasons for the delay in filing a proper reply.)

(Please attach additional sheets if additional space is needed.)

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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TECHNOLOGY CENTER 2100

MATTINGLY, STANGER & MALUR, P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA, VA 22314

In re Application of: Hashimoto
Application No. 10/373,044
Filed: February 26, 2003
For: COMPUTER SYSTEMS, DISK SYSTEMS, AND METHOD FOR CONTROLLING DISK CACHE

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

This is a response to the petition filed August 27, 2004, under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **DISMISSED**.

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

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

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

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

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

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

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

The petition filed August 27, 2004 fail to adequately meet requirements (d) and (e) of the criteria set forth above. With respect to requirement (d), applicant has failed to submit a copy of the reference documents (JP 3271823) and (WO 9710552) that were deemed most closely related to the subject matter encompassed by the claims. With respect to requirement (e), applicant must provide a detailed discussion of reference document (WO 9710552) since applicant has deemed it as one of the most closely related references.

In addition, applicant should consider filing an Information Disclosure Statement (PTO-1449 or PTO-SB08A) to ensure consideration of the references cited in the petition by the assigned examiner.

Petition to Make Special **DISMISSED**.

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

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

1/22/04

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

MBS

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TECHNOLOGY CENTER 2100

MATTINGLY, STANGER, & MALUR P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA VA 22314

In re Application of: HASHIMOTO Application No. 10/373,044 Filed: FEBRUARY 26, 2003 For: COMPUTER SYSTEMS, DISK SYSTEMS, AND METHOD FOR CONTROLLING DISK CACHE	DECISION ON RECONSIDERATION OF PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION UNDER M.P.E.P 708.02 (VIII))

This is a decision on the Request for Reconsideration filed January 26, 2005 of the petition to make special under 37 C.F.R. 1.102(d) and M.P.E.P 708.02 (VIII): ACCELERATED EXAMINATION, originally filed August 27, 2004.

The Reconsideration of the Petition is **DENIED.**

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

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

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

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

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

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

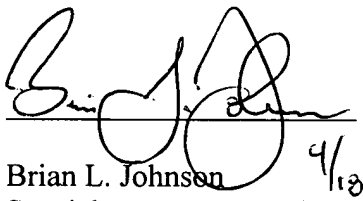
(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The initial decision, mailed November 26, 2004, indicated that the applicant should submit a copy of each reference in order to comply with requirement (d) above and ensure that the discussion of the **references** are directed to how the language of **each of the independent claims** show how they are specifically distinguishable and patentable over the **references** to comply with requirement (e). However, in reference to requirement (d), a copy of reference JP 3271823 has not been provided. Furthermore, in reference to requirement (e), the Petitioner indicates that there is no teaching in JP 3271823 of a "disk subsystem having a configuration information memory for storing at least part of the information used to denote the correspondence between a virtual address space of the main processor of a host and a physical address space of any disk cache"; however, the features are not set forth in claims 10 or 14.

The reconsideration submitted on January 26, 2005 is noted; however, it is not considered sufficient to overcome the initial decision; as indicated above.

Accordingly, the reconsideration of the Petition to Make Special is **DENIED.**

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



Brian L. Johnson 4/13/05
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
703-308-0885

JC

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OFFICE OF PETITIONS

DLA PIPER LLP US
P. O. BOX 2758
RESTON VA 20195

In re Application of :
Michael FREDERICKS et al. :
Application No. 10/373,096 : NOTICE
Patent No. 7,720,702 :
Filed: February 26, 2003 :
Attorney Docket No. **361953-000002**

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

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

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

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-2783.

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Gateway, Inc.
Attention: Mark Dickey
610 Gate Way Drive, MS Y-04
N. Sioux City SD 57049

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OCT 05 2007

OFFICE OF PETITIONS

In re Application of
ERICKSON et al.
Application No. 10/373,120
Filed: 02/24/2003
Attorney Docket No. P1900US00

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed April 27, 2007, which is being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment in the above-identified application.

On August 22, 2006, the Office mailed a nonfinal Office action, which set a two-month shortened statutory period for reply. In the absence of a timely filed response, the application was held abandoned on November 23, 2006. The Office mailed a Notice of Abandonment on April 27, 2007.

A review of the record reveals that petitioners filed a timely reply to the nonfinal Office action via facsimile transmission on November 16, 2006; however, they placed an incorrect application number (10/737,120) on the reply. The reply in the form of an amendment was located in the file of Application No. 10/737,120, and was transferred to the correct application, No. 10/373,120. Therefore, the USPTO received the reply on November 16, 2006, but it was not timely matched with the file due to the incorrect application number.

Under current Office procedure, if a paper having an incorrect application number contains sufficient information to identify the correct application and was timely received at the Office, the holding of abandonment will be withdrawn. In reviewing the papers, it is concluded that there was sufficient information thereon to associate the papers with the present application file.

For the reasons stated above, the petition is **granted**. The holding of abandonment is hereby withdrawn and the application is restored to pending status. The $1,500.00 petition fee is unnecessary and will be refunded by treasury check in due course.

The matter is being referred to Technology Center Art Unit 3679 for appropriate action on the reply filed November 16, 2006.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3211. All other questions regarding the status of the application or the examination process should be directed to the Technology Center.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Gateway, Inc.
Attention: Mark Dickey
610 Gate Way Drive, MS Y-04
N. Sioux City SD 57049

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MAY 1 2 2008

OFFICE OF PETITIONS

In re Application of :
ERICKSON et al. : DECISION ON PETITION
Application No. 10/373,120 :
Filed: 02/24/2003 :
Attorney Docket No. P1900US00 :

This is a decision on the petition under 37 CFR 1.137(b), filed February 29, 2008, to revive the above-identified application.

This application became abandoned for failure to pay the issue fee and publication fee as required by the Notice of Allowance and Fee(s) Due mailed on November 5, 2007, which set a three (3) month statutory period for reply. Accordingly, the application became abandoned on February 6, 2008. A Notice of Abandonment was mailed on February 29, 2008.

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

This matter is being forwarded to the Office of Data Management for processing into a patent.

Telephone inquiries concerning the issuance of the application into a patent should be directed to the Office of Data Management, Customer Service at (571) 272-4200.

Telephone inquiries specifically concerning this decision should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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TIMOTHY J. SHEE II
396 WASHINGTON STREET
SUITE 322
WELLESLEY, MA 02481

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JAN 19 2007

OFFICE OF PETITIONS

In re Application of	:	
Morris et al.	:	
Application No. 10/373,133	:	ON PETITION
Filed: February 24, 2003	:	
Attorney Docket No. CPS-0002	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed October 30, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a Request for Continued Examination (RCE) and an Amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

The Revocation of Power of Attorney with New Power of Attorney submitted with the instant petition is hereby not accepted. Document filed in an application, including Power of Attorneys, must be signed by one of the following:

(1) An attorney or agent of record appointed in compliance with § 1.34(b);
(2) A registered attorney or agent not of record who acts in a representative capacity under the provisions of § 1.34(a);
(3) The assignee of record of the entire interest, if there is an assignee of record of the entire interest;
(4) An assignee of record of an undivided part interest, and any assignee(s) of the remaining interest and any applicant retaining an interest, if there is an assignee of record of an undividing part interest; or
(5) **All of the applicants (§§ 1.42. 1.43 and 1.47) for patent, unless there is an assignee of record of the entire interest and such assignee has taken action in the application in accordance with §§ 3.71 and 3.73.**

Only one of the two listed inventors in the instant application signed the Power of Attorney. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed solely to the address currently of record until such time as proper instructions are received to the contrary.

This matter is being referred to Technology Center 3700 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

Cc: CANTOR COLBURN LLP
55 GRIFFIN ROAD SOUTH
BLOOMFIELD, CT 06002

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CROMPTON, SEAGER & TUFTE, LLC
1221 NICOLLET AVENUE
SUITE 800
MINNEAPOLIS MN 55403-2420

8/1/08

In re Application of:
BEULKE, MEL R.
Serial No.: 10/373,137
Filed: February 24, 2003
Docket: 1001.1618101
Title: EMBOLIC PROTECTION FILTERING DEVICE THAT CAN BE ADAPTED TO BE ADVANCED OVER A GUIDEWIRE

DECISION ON PETITION

This is a decision on the petition filed on Jul. 3, 2008 by which petitioner requests to the entry of the reply brief with the amended claims filed on Nov. 19, 2007 pursuant to 37 CFR §1.181. No fee is required.

The petition is **DISMISSED AS UNTIMELY**.

The record shows that:

1) On October 6, 2006, the examiner issued a final rejection, rejecting claims 1, 2, 15, and 16 amongst other claims.
2) The applicant responded on December 1, 2006 with an amendment under 37 CFR 1.116 with additional supporting arguments.
3) On January 5, 2007, the examiner issued an advisory action informing the applicant that they are not persuasive and will be entered for appeal purposes.
4) The applicant filed a notice of appeal on January 26, 2007.
5) The appeal brief was filed on May 21, 2007.
6) On August 8, 2007, the examiner issued an examiner's answer to the appeal brief by repeating the rejections. The appeal center returned the examiner answer on September 10, 2007 noting omitted references. A corrected examiner answer was subsequently mailed on September 18, 2007.
7) The applicant filed a reply brief on November 19, 2007 rewriting the rejected dependent claims 2 and 16 into independent claims 1 and 15 respectively. The applicant argued that the dependent claims were written in independent form to simply the appealable issues under MPEP § 1208 and 37 CFR 41.33.

8) On February 21, 2008, the examiner refused entry of the reply brief and amendments to the claims because the new amendment added to the application was not previously considered.
9) On July 3, 2008, the applicant filed the current petition requesting entry of the reply brief and amendments because the amendments were made to simplify the issues on appeal and rendered certain rejections moot. The applicant states that nowhere does the amendment filed with the Reply Brief introduce any new amendments.

Discussion

A review of the record shows that the petition was filed more than four months after the mailing date of the refusal to enter the reply brief with amendment on February 21, 2008. Pursuant to 37 CFR 1.181(f)[1], the petition is not timely filed since the petition was not filed within two months of the action complained of. As the petition was not timely filed, the requested entry of the reply brief and amendment filed on Nov. 19, 2007 will not be granted.

In the petition, petitioner also argues that the amendment filed with the reply brief should be entered in accordance with 37 CFR 41.33.[1] An analysis of the new amendment to claims 1 and 15 shows that the scope of the other pending dependent claims 3-13 and 17-23 has been changed. Combining claims 1 with 2 and 15 with 16 do change the scope of other pending dependent claims 3-13 and 13-23. The amendment of Nov. 19, 2007 will also create additional analysis of prior art references on other pending dependent claims. For example, dependent claim 17 was originally depended on independent claim 15 and rejected under 35 USC 103 as unpatentable over Douk in view of Huter. Whereas the original dependent claim 16 depended on independent claim 15 and was rejected under Douk in view of Demond under 35 USC 103. The newly amended independent claim 15 of Nov. 19, 2007 now included all limitations of previous dependent claim 16, then, the patentability of dependent claim 17 must now be reanalyzed and reconsidered. The examiner must consider the patentability of dependent claim 17 in view of the combined teachings of the Douk, Huter and Demon patents. There are a number of other similar situations that exist because pending dependent claims 3-13 and 17-23 all originally directly or indirectly depended on independent claims 1 and 15, respectively and not depended on previous dependent claims 2 and 16. The examiner now must reconsider and reanalyzed the patentability of those pending dependent claims in view of the cited prior art references. Therefore, other pending dependent claims 3-13 and 17-23 constitute new issues which require additional analysis, consideration and search of prior art references. The refusal to enter the reply brief with amendments of Nov. 19, 2007 is deemed proper in accordance with CFR 41.33[2] because the

[1] 37 CFR 1.118 (f) The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. Any petition under this part not filed within two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely, except as otherwise provided. This two-month period is not extendable.

[2] § 41.33 Amendments and affidavits or other evidence after appeal. (a) Amendments filed after the date of filing an appeal pursuant to § 41.31(a)(1) through (a)(3) and prior to the date a brief is filed pursuant to § 41.37 may be admitted as provided in § 1.116 of this title. (b) Amendments filed on or after the date of filing a brief pursuant to § 41.37 may be admitted: (1) To cancel claims, where such cancellation does not affect the scope of any other pending claim in the proceeding, or (2) To rewrite dependent claims into independent form.

amendment of Nov. 19, 2007 does affect the scope of other pending dependent claims. Therefore, the entry of reply brief and amendment of Nov. 19, 2007 remains un-entered.

Conclusion

The relief requested by petitioners will not be granted because the petition was filed more than two months from the action complained of and therefore untimely. The refusal to enter the reply brief and amendment of Nov. 19, 2007 is proper for the reasons as stated above. This application is now being forwarded to the Board of Patent Appeals and Interferences for decision on appeal.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision, 37 CFR § 1.181(f). No extension of time under 37 CFR § 1.136(a) is permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR § 1.181". Any inquiry regarding this decision should be directed to Henry C. Yuen, Special Programs Examiner, at 571-272-4856.

The petition is DISMISSED AS UNTIMELY.

Frederick R. Schmidt, Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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Donald O. Nickey
Cardinal Health, Inc.
7000 Cardinal Place
Dublin, OH 43017

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APR 16 2004

OFFICE OF PETITIONS

In re Application of
Schurig et al.
Application No. 10/373,158
Filed: February 24, 2003
Attorney Docket No. RPS6018D1
For: APPARATUS AND METHODS FOR FORMING PATTERNED SOFT GELATIN CAPSULES

DECISION REFUSING TO ACCORD STATUS UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed February 24, 2003.

The petition is **DISMISSED**.

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

A grantable petition under 37 CFR 1.47(a) requires

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

In addition to the above requirements, the signing inventors must sign the declaration on behalf of the non-signing inventor. See MPEP 409.03(a).

The instant petition fails to satisfy (2). The declaration fails to list the citizenship of the non-signing inventor. The requirement that the citizenship be listed is imposed by statute and may not be waived.

A proper declaration must be submitted.

The sum of $130 for the petition fee will be charged to deposit account no. 50-0256.

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

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

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

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

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

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Donald O. Nickey
Cardinal Health, Inc.
7000 Cardinal Place
Dublin, OH 43017

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AUG 1 6 2004

OFFICE OF PETITIONS

In re Application of
Schurig et al.
Application No. 10/373,158
Filed: February 24, 2003
Attorney Docket No. RPS6018D1
For: APPARATUS AND METHODS FOR FORMING PATTERNED SOFT GELATIN CAPSULES

DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the renewed petition under 37 CFR 1.47(a), filed May 13, 2004.

The petition is **granted**.

When a child (continuing) application uses the parent application's oath/declaration and when a Rule 47 petition was granted in the prior application, an applicant may submit a copy of the prior parent application's Rule 47 decision letter. See 37 CFR 1.63(d)(3)(I).

A copy of the decision granting a 37 CFR 1.47(a) petition from a prior application has been submitted. Therefore, petitioner has complied with 37 CFR 1.63(d)(3) and MPEP 201.06(c). The declaration (along with the decision from the prior application) is accepted and the signing inventors may prosecute the application on behalf of the non-signing inventor.

For the foregoing reasons, the 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 Office of Publications will be notified that the application has been accorded Rule 1.47(a) status.

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : April 7, 2006

TO SPE OF : ART UNIT 2855

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/373165 Patent No.: 6,973,825

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: _____

_____

_____

_____

_____

_____ 2855

SPE **Art Unit**

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P O BOX 828
BLOOMFIELD HILLS, MI 48303

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AUG 2 5 2004

OFFICE OF PETITIONS

In re Application of :
Akira Arai et al : DECISION GRANTING PETITION
Application No. 10/373,221 : UNDER 37 CFR 1.313(c)(2)
Filed: February 24, 2003 :
Attorney Docket No. 9319A-184DVA :

This is a decision on the petition, filed August 24, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 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 should be directed to the undersigned at (703) 305-8680.

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).*

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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FRED H. ZOLLINGER, III
SAND & SEBOLT
AEGIS TOWER, SUITE 1100
4940 MUNSON STREET, NW
CANTON, OH 44718

FAX RECEIVED

MAY 26 2005

OFFICE OF PETITIONS

In re Application of :
Belden, Dennis D. :
Application No. 10/373,234 : ON PETITION
Filed: February 24, 2003 :
Attorney Docket No. 1796018US1AP :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed May 12, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed February 3, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on May 4, 2005.

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

Petitioner submitted $700.00 towards payment of the petition fee. However, the petition fee is $750.00. Accordingly, an additional $50.00 was charged to petitioner's deposit account as authorized.

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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COMPUTER PATENT ANNUITIES
225 REINEKERS LANE
SUITE 400
ALEXANDRIA, VA 22314

Mail Date: 04/21/2010

Applicant	: Vladimir Gartstein	: DECISION ON REQUEST FOR
Patent Number	: 7578954	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/373,251	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/24/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **368** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 5

PATTERSON THUENTE SKAAR & CHRISTENSEN PA
4800 IDS CENTER
80 SOUTH 8TH STREET
MINNEAPOLIS MN 55402-2100

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SEP 1 1 2003

OFFICE OF PETITIONS

In re Application of
Pathak, et al.
Application No. 10/373,269
Filed: February 24, 2003
Attorney Docket No. 2962.04US04

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.17(h), filed June 18, 2003 (Certificate of Mailing dated June 16, 2003), which is being treated as a petition under 37 CFR 1.53 to accord the above-identified application a filing date of February 24, 2003, with page 59 of the specification as a part of the original disclosure.

The petition is **GRANTED**.

Application papers in the above-identified application were filed on February 24, 2003. However, on June 6, 2003, the Initial Patent Examination Division mailed applicant a "Notice of Omitted Item(s) in a Nonprovisional Application." Applicant was notified that the application papers had been accorded a filing date; however, page 59 of the specification appeared to have been omitted.

In response, applicant filed the instant petition. Accompanying the petition was a copy of page 59 of the specification. Applicant maintains that the application as originally filed included this page. In support thereof, applicant submitted a postcard receipt identifying this application, itemizing "Continuation application (65 pages)" as enclosed, bearing a United States Patent and Trademark Office date-stamp of February 24, 2003, and lacking any notation of non receipt of any item listed.

A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the Office of all items listed thereon on the date stamped thereon by the Office. See MPEP 503.

Given the basis for granting the petition, the petition fee has been refunded to Deposit Account No. 16-0631.

The application is being forwarded to the Office of Initial Patent Examination (OIPE) for further processing with a filing date of February 24, 2003, using the application papers received in the Office on that date and page 59 of the specification as resupplied on petition filed June 18, 2003.

Telephone inquiries related to this decision should be directed to Petitions Attorney Cliff Congo at 703-305-0272.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

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UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. None

JOHN A. MOLNAR, JR.
PARKER-HANNIFIN CORPORATION
6035 PARKLAND BOULEVARD
CLEVELAND OH 44124-4141

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MAR 14 2007

OFFICE OF PETITIONS

In re Application of	:	
Brian D. Morrison	:	
Application No. 10/373,272	:	DECISION ON THREE PETITIONS
Filed: February 24, 2003	:	UNDER 37 C.F.R. §§ 1.137(A)
Attorney Docket No.: 2802-362-016	:	AND 1.181
Title: OPTICAL RING ARCHITECTURE	:	

This is a decision on the two submissions of October 16, 2006 and December 5, 2006, which are properly treated as petitions pursuant to Rule §1.181, and the petition pursuant to Rule §1.137(a) filed on January 30, 2007.

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 January 20, 2006, which set a shortened statutory period for reply of three months. No extensions of time under the provisions of 37 C.F.R §1.136(a) were obtained, and no timely responses were received. Accordingly, the above-identified application became abandoned on April 21, 2006. A notice of abandonment was mailed on January 24, 2007.

The petition pursuant to 37 C.F.R. §1.181:

Petitioner has alleged that the final Office action was not received, and that it was mailed to the wrong location.

The electronic file has been reviewed, and it is clear that a Revocation of Power of Attorney and a New Power of Attorney were received on October 11, 2005, however it does not appear that

they were entered in a timely manner. As such, it is clear that the final Office action was mailed to the wrong address.

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

The petition pursuant to 37 C.F.R. §1.137(a):

Due to the discussion above, the petition pursuant to 37 C.F.R. §1.137(a) is hereby **DISMISSED AS MOOT**.

The fee associated with the filing of the present petition will be refunded to Petitioner's Deposit Account in due course.

The Technology Center will be notified of this decision. The Technology Center's support staff will re-mail the final Office action of January 20, 2006, and will set a new period for response.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures should be directed to the Technology Center.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 3

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

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OFFICE OF PETITIONS

ON PETITION

In re Application of
Lamanna et al.
Application No. 10/373,273
Filed: February 24, 2003
Attorney Docket No.56614US004

This is a decision on the petition under 37 CFR 1.182, filed on June 5, 2003, to correct priority claim for the above-identified application.

The petition is **Dismissed**.

Petitioner has filed a petition under 37 CFR 1.182 to correct the priority claim filed in the above-identified divisional application. Petitioner states the incorrect priority claim application number 09/853,064 was provided in the transmittal form and in the first sentence in the specification. The correct priority claim should have referenced parent application 09/853,065.

Correction of the priority claim can not be achieved with the filing of a petition under 37 CFR 1.182. A petition under 37 CFR 1.182 is an appropriate petition for situations not provided for in the regulations. However, petitioner is able to correct the defective priority claim with a Petition to Accept An Unintentionally Delayed Continuity Claim under 37 CFR 1.78.

A petition 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), and must be filed during the pendency of the nonprovisional application. In addition, the petition must accompanied by:

(1) the surcharge as set forth in 37 CFR 1.17(t);

(2) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2) and the date the claim was filed as unintentional; and

(3) the reference to the prior filed nonprovisional application, supplied in an application data sheet, or as an amendment in the first sentence following the title. *See* 35 USC 120 and 37 CFR 1.78(a)(2). The Commissioner may require additional information where there is a question whether the delay was unintentional.

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 concerning this matter may be directed to Petition Attorney Charlema R. Grant at 703.306.0251.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 5

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

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SEP 23 2004

OFFICE OF PETITIONS

In re Application of
Lamanna et al.
Application No. 10/373,273
Filed: February 24, 2003
Attorney Docket No.56614US004

ON PETITION

This is a decision on the petition under 37 CFR 1.78(a)(3), filed on October 17, 2003, to accept an unintentionally delayed claim under 35 USC 120 for the benefit of prior- filled nonprovisional Application 09/853,065 filed May 10, 2001.

The petition is **Dismissed**.

Petitioner has filed a petition under 37 CFR 1.182 to correct the priority claim filed in the above-identified divisional application. Petitioner states the incorrect priority claim application number 09/853,064 was provided in the transmittal form and in the first sentence in the specification. The correct priority claim should have referenced parent application 09/853,065.

A petition 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), and must be filed during the pendency of the nonprovisional application. In addition, the petition must accompanied by:

(1) the surcharge as set forth in 37 CFR 1.17(t);

(2) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2) and the date the claim was filed as unintentional; and

(3) the reference to the prior filed nonprovisional application, supplied in an application data sheet, or the specification must contain or be amended to contain such reference in the first sentence following the title. *See* 35 USC 120 and 37

> CFR 1.78(a)(2). The Commissioner may require additional information where there is a question whether the delay was unintentional.

Petitioner has failed to provide item (3) in the appropriate manner as outlined in 37 CFR 1.121. The reference to the above-noted, prior- filed nonprovisonal application was not included in the manner specified in 37 CFR 1.78(a)(2) (i.e. in an ADS or in an amendment to the first sentence following the title of the specification). The reference to the prior filed nonprovisional application was supplied in the petition rather than in an amendment within the meaning of 37 CFR 1.121, which requires each section of an amendment document (eg specification amendments, claim amendments, drawings amendments and Remarks) must begin on a separate sheet.

It should be noted if petitioner decides to add the reference required by 35 USC 120 and 37 CFR 1.78(a)(2) via an amendment to the specification the reference should not include an improper incorporation by reference. Petitioner's attention is directed to *Dart Industries v. Banner*, 636 F. 2d 684, 207 USPQ273 (C.A.D.C. 1980), where the court drew a distinction between the permissible 35 USC Application No. 120 statement, and the impermissible introduction of new matter by way of incorporation by reference in a 35 USC 120 statement. The court specifically stated:

> Section 120 merely provides the mechanism whereby an application becomes entitled to benefit of the filing date of an earlier application disclosing the same subject matter. Common subject matter must be disclosed, in both applications, either specifically or bay an express incorporation by reference of prior disclosed subject matter. Nothing in section 120 itself operates to carry forward any disclosure from an earlier application. *In re deSeversky*, *supra* at 674, 177 USPQ at 146-147. Section 120 contains no magical disclosure-augmenting powers able to pierce new matter barriers. It cannot, therefore "limit" the absolute and express prohibition against new matter contained in section 251 [or 132]. *Id.* At 688, 207 USPQ at 276.

Accordingly, before the petition under 37 CFR 1.78 (a)(3) can be granted an appropriate reference within the meaning of 35 USC 120 and 37 CFR 1.78 (a)(2) must be submitted.

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

By mail:

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

By facsimile:

(703) 872-9306

By delivery service:
(FedEx, UPS, DHL, etc.)

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

Telephone inquiries concerning this matter may be directed to Petition Attorney Charlema R. Grant at 703.306.0251.

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
www.uspto.gov

Domenic Belleza
CBL Acquisition LLC, c/o Technipower LLC
14 Commerce Drive
Danbury CT 06810-4131

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JAN 0 5 2006

OFFICE OF PETITIONS

In re Application of :
Brian D. Morrison :
Application No. 10/373,283 : DECISION ON PETITION
Filed: February 24, 2003 :
Attorney Docket No. CLK-006.01 :

This is a decision on the petition under 37 CFR 1.137(b), file August 12, 2005, to revive the above-identified application. The petition was recently forwarded to the Office of Petitions for a decision on the merits. The Office apologizes for any inconvenience to applicant.

On January 12, 2005, the Office mailed a Notice of Allowance and Fee(s) Due and a Notice of Allowability, which set a three-month statutory period for reply. The Notice of Allowance indicated that applicant must submit an issue fee and a publication fee by April 12, 2005, to avoid abandonment. The Notice of Allowability required applicant to submit Corrected Drawings (as "replacement drawings"). Applicant did not submit a proper and timely response to either Notice within the specified period for reply. Accordingly, the application became abandoned on April 13, 2005. A Notice of Abandonment was mailed on July 8, 2005.

Applicant has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Applicant submitted the required reply in the form of corrected drawings and payment of the issue and publication fees. Additionally, applicant paid the petition fee and made the proper statement of unintentional delay.

Accordingly, the petition under 37 CFR 1.137(b) is **granted.**

The Office notes that the address given in the petition differs from the address of record; however, the application file does not indicate that applicant filed a change of correspondence address in this case. If the applicant desires to receive future correspondence regarding this application at the address indicated on the petition, a change of correspondence address must be submitted. The Office will continue to send correspondence to the address of record until otherwise notified. As a one-time courtesy, the Office will mail a copy of the decision to the address listed on the petition.

This matter is being referred to the Office of Patent Publication for issuance of a patent.

Telephone inquiries should be directed to the undersigned at (571) 272-3211.

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Notice of Draftsperson's Patent Drawing Review

Cc: Parker-Hannifin Corporation
6035 Parkland Boulevard
Cleveland, Ohio 44124-4141

UNITED STATES PATENT AND TRADEMARK OFFICE

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

NIXON & VANDERHYE, PC
1100 N GLEBE ROAD
8TH FLOOR
ARLINGTON, VA 22201-4714

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SEP 0 2 2004

OFFICE OF PETITIONS

In re Application of :
Satoshi Hada, et al. :
Application No. 10/373,289 : ON PETITION
Filed: February 26, 2003 :
Attorney Docket No. 2635-151 :

This is a decision on the petition, filed September 1, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 15, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 1753 for further processing of the request for continued examination under 37 CFR 1.114 filed September 1, 2004.

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

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

MNL 2635-151

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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8TH FLOOR
ARLINGTON, VA 22201-4714

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SEP 0 2 2004
OFFICE OF PETITIONS

In re Application of :
Satoshi Hada, et al. :
Application No. 10/373,289 : ON PETITION
Filed: February 26, 2003 :
Attorney Docket No. 2635-151 :

This is a decision on the petition, filed September 1, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 15, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 1753 for further processing of the request for continued examination under 37 CFR 1.114 filed September 1, 2004.

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

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

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

BURNS DOANE SWECKER & MATHIS L L P
POST OFFICE BOX 1404
ALEXANDRIA VA 22313-1404

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JUN 2 8 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of
Hughes, et al.
Application No. 10/373,302
Filed: February 26, 2003
Attorney Docket No. 14470

This is a decision on the petition under 37 CFR 1.137(a), filed June 28, 2004 (certificate of mailing date June 23, 2004), to revive the above-identified application. In addition, 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 **DISMISSED**.

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 submit a reply within 2 months in response to the Notice to File Corrected Application Papers, mailed April 10, 2003. No extensions of time were obtained. Accordingly, the above-identified application became abandoned on June 11, 2003 for failure to reply. A Notice of Abandonment was mailed on May 26, 2004.

PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

An allegation that an Office action was not received may be considered as a petition for the withdrawal of the holding of abandonment. The showing required to establish nonreceipt 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 Notice, and in the absence of any irregularity there is a strong presumption that the communication was properly mailed to the applicants 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.

The petition under 37 CFR 1.181 is dismissed.

Since practitioner states that he did not receive the Notice of April 10, 2003, a copy is enclosed.

PETITION UNDER 37 CFR 1.137(a)

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In 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 requirements (1) and (3).

With respect to (1) above, petitioner will be able to submit an appropriate reply after receiving a copy of the Notice.

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

---

[1] See notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

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).

In the instant case, practitioner has failed to provide adequate evidence that the delay was unavoidable. Although practitioner has submitted a copy of practitioner's calendar for dates around the June 10, 2003 deadline, practitioner has not explained the procedure for processing mail and docketing PTO due dates. Practitioner states that he personally supervises the calendaring of all documents. Does practitioner docket the due dates himself, or does he review another employee? A more thorough explanation of docketing procedure is required. In addition, practitioner should conduct a thorough search of the file jacket and docket records and provide a statement regarding the outcome of the search.

The petition under 37 CFR 1.137(a) is dismissed.

A courtesy copy of this decision will be mailed to the attorney who filed this 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
Customer Service Window, Mail Stop Petition
Randolph Building
401 Dulany Street

Alexandria, VA 22314

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

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

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

Enclosure: Notice to File Corrected Application Papers, mailed April 10, 2003

cc: THEODORE J. BIELEN, JR.
SUITE 720
1990 N. CALIFORNIA BLVD.
WALNUT CREEK, CA 94596

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. 16

THEODORE J. BIELEN JR.
1390 WILLOW PASS ROAD
SUITE 1020
CONCORD CA 94520

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SEP 2 6 2005

OFFICE OF PETITIONS

In re Application of :
Hughes, et al. : ON PETITION
Application No. 10/373,302 :
Filed: February 26, 2003 :
Attorney Docket No. 14470 :

This is a decision on the reconsideration petition, filed August 15, 2005 (certificate of mailing date August 12, 2005), to revive the above-identified application. The petition will be treated under 37 CFR 1.137(a). In addition, the petition will be treated under 37 CFR 1.181 as a request for clarification of the record with respect to power of attorney isssues.

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

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

The above-identified application became abandoned for failure to timely submit a reply within 2 months in response to the Notice to File Corrected Application Papers, mailed April 10, 2003. No extensions of time were obtained. Accordingly, the above-identified application became abandoned on June 11, 2003 for failure to reply. A Notice of Abandonment was mailed on May 26, 2004.

Practitioner has provided adequate evidence that the delay was unavoidable. Practitioner has provided a copy of the calendar docket system where the April 10, 2003 Notice would have been entered had it been received. There is no mention of the April 10, 2003 Office action. Practitioner has explained that his secretary dockets due dates on the general calendar after receiving Office correspondence and after the docketing, practitioner checks the calendaring for accuracy. Practitioner states that he searched the records of his office, including the docket records and the file jacket, but there was no mention of the Notice of April 10, 2003. The evidence is persuasive that the delay in responding to the April 10, 2003 Notice was unavoidable.

The petition under 37 CFR 1.137(a) is granted.

With respect to the petition under 37 CFR 1.181 for clarification of the record regarding power of attorney in the instant application, it is noted that the assignee of the entire interest intervened on June 14, 2004 (certificate of mailing date June 9, 2004) and filed a power of attorney for the application at issue. This power of attorney named the practitioners associated with customer number 28061 as empowered attorneys. Subsequently, the inventors have attempted (with varying degrees of success) to alter the power of attorney on December 20, 2004 and most recently on April 6, 2005.

On January 31, 2005, Attorney Theodore J. Bielen, Jr., an attorney of record empowered by the assignee of the entire interest, filed a letter to the examiner stating that the power of attorney/revocation submitted by the inventors on December 20, 2004 has no effect because the assignee of the entire interest had designated appointed attorneys. This argument holds true for the power of attorney/revocation submitted by the inventors on April 6, 2005.

The Office concurs with Attorney Bielen. Power of attorney remains as stated in the June 14, 2004 power of attorney filed by the assignee of the entire interest. The practitioners associated with customer number 28061 are the attorneys of record and the correspondence address of record is that which is associated with customer number 28061

After the mailing of this decision, the application will be returned to the Office of Initial Patent Examination for consideration of the replacement drawings, filed on August 15, 2005 (certificate of mailing date August 12, 2005).

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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THEODORE J. BIELEN JR.
BIELEN, LAMPE, & THOEMING
1390 WILLOW PASS ROAD
SUITE 1020
CONCORD CA 94520

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JUL 23 2007
OFFICE OF PETITIONS

In re Application of :
Hughes, et al. :
Application No. 10/373,302 : ON PETITION
Filed: February 2, 2003 :
Attorney Docket No. 1034438-000002 :
For: FLUID MASS FLOW METER DEVICE

This is a decision on the petition under 37 CFR 1.137(b), filed May 14, 2007, to revive the above-identified application.

The above-identified application became abandoned for failure to reply to the non-final Office action mailed January 17, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on April 18, 2006 for failure to reply. A Notice of Abandonment was mailed on August 3, 2006.

Petitioners have submitted an amendment in reply to the January 17, 2006 non-final Office action, an acceptable statement of the unintentional nature of the delay in responding to the January 17, 2006 non-final Office action, and the required petition fee.

Regarding the statement of unintentional delay: The statement of unintentional delay was not signed by a person who would have been in a position of knowing that the delay in filing a timely response was unintentional. In the event that practitioner has no knowledge that the delay was in fact unintentional, practitioner should make a reasonable inquiry to ascertain that, in fact, the delay was unintentional. If practitioner discovers that the delay was intentional, practitioner must so notify the Office.

The petition is **GRANTED**.

The Revocation of Power of Attorney with New Power of Attorney and Change of Correspondence Address, filed May 14, 2007, is not acceptable because it was not accompanied

by a statement under 37 CFR 3.73(b). A courtesy copy of this decision will be mailed to the address listed on the petition.

The application file is being forwarded to Technology Center AU 2855 for consideration of the amendment filed on May 14, 2007.

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

CC: CLAUDE A.S. HAMRICK
BUCHANAN INGERSOLL & ROONEY, LLP
P.O. BOX 1404
ALEXANDRIA, VA 22313-1404

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United States Patent and Trademark Office
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BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA VA 22313-1404

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SEP 19 2008

In re Application of :
Hughes, et al. :
Application No. 10/373,302 : ON PETITION
Filed: February 26, 2003 :
Attorney Docket No. 1034438-000002 :

This is a decision on the petition, filed March 27, 2008, 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 August 30, 2007 final Office action. No response being received and no extensions of time being obtained, this application became abandoned on December 1, 2007. A Notice of Abandonment was mailed on March 24, 2008.

Applicants have submitted an amendment and terminal disclaimer in reply to the August 30, 2007 final Office action, an acceptable statement of the unintentional nature of the delay in responding to the August 30, 2007 final Office action, and the petition fee.

The statement of unintentional delay was not signed by a person who would have been in a position of knowing that the delay in filing a timely response was unintentional. In the event that practitioner has no knowledge that the delay was in fact unintentional, practitioner should make a reasonable inquiry to ascertain that, in fact, the delay was unintentional. If practitioner discovers that the delay was intentional, practitioner must so notify the Office.

The petition is **GRANTED**.

The Revocation/Power of Attorney/Change of Correspondence Address filed on March 27, 2008 has been entered and made of record. Please find an enclosed Notice reflecting the changes.

After the mailing of this decision the application will be forwarded to Technology Center AU 2855 for consideration of the amendment and terminal disclaimer filed on March 27, 2008.

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

enclosure: NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

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
10/373,302	02/26/2003	Nathaniel Hughes	

CONFIRMATION NO. 4254

POA ACCEPTANCE LETTER

21839
BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA, VA 22313-1404

OC000000032092650

Date Mailed: 09/16/2008

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/27/2008.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/swbrantley/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/373,302	02/26/2003	Nathaniel Hughes	

CONFIRMATION NO. 4254

POWER OF ATTORNEY NOTICE

28061
THEODORE J. BIELEN JR.
BIELEN, LAMPE, & THOEMING
1390 WILLOW PASS ROAD
SUITE 1020
CONCORD, CA 94520

Date Mailed: 09/16/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/27/2008.

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

/swbrantley/

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20071019

DATE : October 19, 2007

TO SPE OF : ART UNIT 1797

SUBJECT : Request for Certificate of Correction on Patent No.: 6,991,112

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-910
Palm location **7590** - Tel. No. 305-8201

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

Thank You For Your Assistance **Certificates of Correction Branch**

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

☒ **Approved** **All** changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

SPE: David Sample **Art Unit** 1797

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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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. 10/373,325
Filed: February 24, 2003
For: SYSTEMS AND METHODS FOR UPSTREAM THREAT PUSHBACK

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.

1/19/03

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

MBS

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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FISH & RICHARDSON P.C.
P.O BOX 1022
Minneapolis MN 55440-1022

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SEP 11 2007

OFFICE OF PETITIONS

In re Patent No. 7,213,260 :
Issued: May 1, 2007 : LETTER REGARDING PTA
Application No. 10/373,325 :
Filed: February 24, 2003 :
Atty. Dkt. No.: 20281-006002 :

This letter is in response to the "LETTER REGARDING PATENT TERM ADJUSTMENT," filed June 29, 2007. The Office thanks applicants for their good faith and candor in bringing this to our attention.

The above-identified application matured into U.S. Patent No. 7,213,260 on May 1, 2007. The patent issued with a patent term adjustment (PTA) of 300 days. Patentee indicates that the adjustment is thought to be longer than appropriate and that the correct adjustment is 274 days.

Patentee has not set forth a specific error in the calculation of PTA. However, a review of the calculation of PTA reveals that the correct determination is 300 days, as indicated on the patent.

As patentee is advising us of a potential error in providing too much patent term adjustment in this patent, no fee is due in connection with this matter.

If upon further review of the matter patentee maintains that an error in the adjustment exists, patentee is given 30 days to file a request for reconsideration of the instant letter, specifically setting forth the alleged error in calculation.

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

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ALBERTO Q. AMATONG, JR.
P.O. BOX 70889
HOUSTON TX 77270-0889

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DEC 0 4 2007

OFFICE OF PETITIONS

In re Application of	:	
Walter V. Klemp et al	:	
Application No. 10/373,345	:	DECISION GRANTING PETITION
Filed: February 24, 2003	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. P01973US1	:	

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

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply is accepted as having been unintentionally delayed.

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

This matter is being referred to Technology Center AU 3761.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SEP 23 2003

MAILED

SEP 23 2003

OFFICE OF THE DIRECTOR
TC 3600

James G. O'Neill
Klein O'Neill & Singh, LLP
2 Park Plaza, Suite 510
Irvine CA 92614

Paper No. 6

In re application of
Maximilian B. Lee
Application No.10/373359
Filed: February 24, 2003
For: COLLAPSIBLE DOLLY

: **DECISION ON PETITION**
: **TO MAKE SPECIAL**
: **(INFRINGEMENT)**

This is a decision on the petition under 37 C.F.R § 1.102(d) filed June 19, 2003 to make the above-identified application special.

The petition requests that the above-identified application be made special under the procedure set forth in M.P.E.P. § 708.02, item II: Infringement.

MPEP 708.02 states that a Petition to Make Special based on Infringement must have the following: (1) the appropriate petition fee under 37 CFR 1.17(i); (2) a statement by the assignee, applicant, or attorney alleging: (A) that there is an infringing device or product actually on the market; (B) that a rigid comparison of the alleged infringing device or product with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and (C) that he or she has made a careful and thorough search of the prior art, or has good knowledge of the prior art, and has sent a copy of the references deemed most closely related to the subject matter encompassed by the claims.

The petition filed June 19, 2003 includes all of the requirements above and, therefore, the petition is **GRANTED**.

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

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

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
(703) 308-2121

RAR/ekn 9/17/03

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 10/28/09 **Paper No.:** —

TO SPE OF : ART UNIT 2862

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/373365 Patent No.: 7463035B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Virginia Tolbert
Certificates of Correction Branch
571-272-0460

Thank You For Your Assistance

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

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

Comments: _____

Patrick Assouad

Digitally signed by Patrick Assouad
DN: cn=Patrick Assouad, c=US, o=USPTO, ou=AU2858, email=patrick.assouad@uspto.gov
Date: 2009.11.19 08:28:57 -05'00'

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : October 29, 2009

TO SPE OF : ART UNIT 2862 - Clayton E. Laballe 2858 Patrick Assouad

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/373,365 Patent No.: 7,463,035 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
Randolph Square Building
2800 South Randolph Street
Arlington, VA 22206

Antonio Johnson

Certificates of Correction Branch

(571)272-0483

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

_____

_____

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Alexandria, VA 22313-1450
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INTELLECTUAL PROPERTY GROUP
FREDRIKSON & BYRON, P.A.
200 SOUTH SIXTH STREET
SUITE 4000
MINNEAPOLIS MN 55402

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DEC 30 2005

OFFICE OF PETITIONS

In re Patent No. 6,900,082	:	
Issue Date: May 31, 2005	:	
Application No. 10/373,378	:	DECISION ON PETITION
Filed: February 24, 2003	:	
Attorney Docket No. 14053.39.0	:	

This is a decision on the petition filed July 29, 2005, to correct the assignment information on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **granted**.

The matter is being referred to the Certificate of Correction Branch to issue the Certificate of Correction.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3211. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

SPE ⊗ M. Woodward

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5/3/07

TO SPE OF : ART UNIT 1615

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/373,402 Patent No.: 6773714

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: _____

M M Woodward — SPE

1615 — Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:112105

DATE : November 21, 2005

TO SPE OF : ART UNIT 3616

SUBJECT : Request for Certificate of Correction on Patent No.: 6,802,536

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:

11/21/05

SPE: Paul N. Dickson **Art Unit** 3616

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO.: 6,802,536
DATED: October 12, 2004
INVENTOR(S): Marvin V. Manwaring; Melvin Lee Tinnin; Ravindra Jwalapathy; Ray G. Armstrong; Xiaoyu Li

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

Xiaoyu Lee has been deleted as an inventor so that the correct inventorship is now:

Marvin V. Manwaring; Melvin Lee Tinnin; Ravindra Jwalapathy; Ray G. Armstrong.

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

CHARLIE EVERITT, HEAD OF IP
SAMSONITE HOUSE , 4 MONDIAL WAY
HAYES UB3 5AR GB UNITED KINGDOM

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FEB 20 2008

OFFICE OF PETITIONS

ON PETITION

In re Application of
Gregory W. O'Conner, et al.
Application No. 10/373,423
Filed: February 24, 2003
Attorney Docket No. P65749

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

It is noted that the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

The application became abandoned for a failure to reply in a timely manner to a non-final Office action mailed December 28, 2006. A Notice of Abandonment was subsequently mailed on September 6, 2007.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b). Accordingly, the petition is **GRANTED**.

Extensions of time under 37 CFR 1.136 are available only if asked for prior to or with the response. In no case, however, may an applicant respond later than the maximum time period set by statute. Accordingly, if the question of abandonment arises when the provisions of 37 CFR 1.136 can no longer be used, then the application is abandoned when the unextended time for response has expired. Since, no extension of time fees are due on a petition for revival, petitioner is entitled to a refund of the $1,050 extension fees included with this petition.

Any request for refund must included a copy of this decision and be mailed to Mail Stop 16, Director of the U.S. Patent and Trademark Office, P. O. Box 1450, Alexandria, VA 22313-1450 or faxed to the Customer Service Help Desk at (571) 273-6500.

The application is being referred to Technology Center AU 1732 for consideration of the response filed November 1, 2007.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: GREGORY W. O'CONNER
4701 HOMESTEAD
LITTLETON, CO 80123

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

PATRICK D. KELLY
11939 MANCHESTER #403
ST. LOUIS, MO 63131

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JAN 2 8 2005

OFFICE OF PETITIONS

In re Application of	:	
Harbut et al.	:	
Application No. 10/373,433	:	ON PETITION
Filed: February 23, 2003	:	
Attorney Docket No. KET-NP-1	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed December 10, 2004 (Certificate of Mailing date of December 7, 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 May 12, 2003. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on July 13, 2003. A Notice of Abandonment was mailed on February 12, 2004.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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PATRICK D. KELLY
11939 MANCHESTER #403
ST. LOUIS, MO 63131

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JAN 14 2009

OFFICE OF PETITIONS

In re Application of :
Ronald E. Harbut, et al. :
Application No. 10/373,433 : ON PETITION
Filed: February 23, 2003 :
Attorney Docket No. KET-NP-1 :

This is a decision in response to the petition, filed October 7, 2008, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to an Office communication mailed October 10, 2007. A Notice of Abandonment was mailed on July 3, 2008. In response, on June 4, 2008, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of amendment; (2) the petition fee of $810; and (3) an adequate statement of unintentional delay.

The application is being referred to Technology Center AU 1614 for appropriate action in the normal course of business on the reply received October 7, 2008.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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BRIAN K. DINICOLA
34 AVENUE E
MONROE Twp NJ 08831-2316

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JAN 25 2006

OFFICE OF PETITIONS

In re Application of :
Michael Parillo et al :
Application No. 10/373,443 : DECISION GRANTING PETITION
Filed: February 25, 2003 : UNDER 37 CFR 1.137(b)
Attorney Docket No. Parillo 1-1 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 18, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office action of April 6, 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
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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BRIAN K. DINICOLA
34 AVENUE E
MONROE TWP NJ 08831-2316

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OFFICE OF PETITIONS

In re Application of :
Michael Parillo et al :
Application No. 10/373,443 : ON PETITION
Filed: February 25, 2003 :
Attorney Docket No. Parillo 1-1 :

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

The petition is **DISMISSED** as Moot.

The petition is dismissed as moot in view of the decision mailed on January 25, 2006, which granted the petition under 37 CFR 1.137(b) filed on November 23, 2005.

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

The application is being referred to the examiner in Technology Center AU 3724 for appropriate action as the nature of the case may require.

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DEC -7 2004

In re Application of	:	
Richard Ryan	:	
Serial No. 10/373,446	:	DECISION ON PETITION
Filed: February 24, 2003	:	TO WITHDRAW AS ATTORNEY
For: BASEBALL PRACTICE BAT	:	

By papers filed on May 17, 2004, counsel has petitioned to withdraw as attorney of record in this application.

The petition is GRANTED.

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

Richard Ryan
9599 West Charleston Blvd.
Las Vegas, NV 89117

E. Rollins-Cross, Director
Technology Center 3700

Edward S. Sherman
5698 Eagle Rock Court
Santa Rosa, CA 95409

UNITED STATES PATENT AND TRADEMARK OFFICE

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DORSEY & WHITNEY, LLP
INTELLECTUAL PROPERTY DEPARTMENT
370 SEVENTEENTH STREET
SUITE 4700
DENVER, CO 80202-5647

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SEP 13 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of :
James A. Hassett :
Application No. 10/373,455 :
Filed: February 24, 2003 :
Attorney Docket No. 12050.09 :

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action mailed February 15, 2005, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on May 16, 2005.

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

This matter is being referred to Technology Center AU 3739 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P. O. Box 1450
Alexandria, VA 22313-1450
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DORSEY & WHITNEY, LLP
INTELLECTUAL PROPERTY DEPARTMENT
370 SEVENTEENTH STREET, SUITE 4700
DENVER, CO 80202-5647

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JUN 18 2007

OFFICE OF PETITIONS

In re Application of :
James A. Hassett :
Application No. 10/373,455 : ON PETITION
Filed: February 24, 2003 :
Attorney Docket No. 12050.09 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 10, 2007, to revive the above-identified application.

The petition is **DISMISSED AS MOOT**.

Office records show a decision was mailed September 13, 2006 to the above address. The $1950 received with the petition on January 10, 2007 is unnecessary and is being credit to petitioner's credit card.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

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

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Chun-Pok "Roger" Leung
St. Jude Medical
Atrial Fibrillation Division, Inc.
14901 DeVeau Place
Minnetonka, MN 55345-2126

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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E I du PONT de NEMOURS AND COMPANY
LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1128
4417 LANCASTER PIKE
WILMINGTON, DE 19805

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OFFICE OF PETITIONS

In re Application of :
John A. Barnes :
Application No. 10/373,461 : DECISION GRANTING PETITION
Filed: February 25, 2003 : UNDER 37 CFR 1.137(b)
Attorney Docket No. AD 6715 US CON :

This is a decision on the petition under 37 CFR 1.137(b), filed January 4, 2006, 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 May 3, 2005, 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 July 6, 2005 (July 4, 2005, the due date, was a holiday). *See* MPEP 1215.04. A Notice of Abandonment was mailed on December 13, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply (a request for continued examination (RCE), $790 filing fee therefor, and submission as required by 37 CFR 1.114); (2) the $1,500 petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply is accepted as having been unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue.

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

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

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

This matter is being referred to Technology Center AU 1772 for processing of the RCE and for appropriate action in the normal course of business on the submission under 37 CFR 1.114.

Frances Hicks
Petitions Examiner
Office of Petitions

cc:

Robert B. Furr, Jr.
Three Little Falls Centre
2801 Centerville Road
Wilmington, DE 19808

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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**OFFICE OF THE DIRECTOR
TC 3600**

Leo H. McCormick Jr.
2112 Mishawaka Avenue
South Bend, IN 46634

In re Application of
Chris Anderson
Application No. 10/373,467
Filed: February 24, 2003
For: MASTER CYLINDER FOR AN ELECTRO-HYDRAULIC BRAKING SYSTEM COMPRISING IMPROVED MEANS OF SIMULATING THE PEDAL FEEL AND AN ELECTRO-HYDRAULIC BRAKING SYSTEM COMPRISING SUCH A MASTER CYLINDER

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in reply to the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed in the United States Patent and Trademark Office, on June 8, 2004.

The petition is **GRANTED** in view of the following evidence of timely filing :

☐ Postcard receipt being dated_____.

☐ USPTO return facsimile receipt dated _____ which identifies the application by serial number and the type of Response that was filed on that date.

☒ Certificate of Mailing/Transmission signed on October 14, 2003 and supported by a statement under 37 C.F.R. 1.8(b)(3).

☐ Hand Delivery Receipt of the specific documents submitted dated _____.

☐ Certificate of Transmission of CPA under 37 C.F.R. 1.6 filed on _____.

☐ Express Mail Receipt under 37 C.F.R. 1.10 dated _____.

This application is being forwarded to the Supervisory Legal Instruments Examiner for entry of the response filed with the petition, then to the examiner for prompt action on the response.

SNM/vdb: 7/6/04

STEVEN N. MEYERS
SPECIAL PROGRAM EXAMINER
TECHNOLOGY CENTER 3600

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STEVEN FISCHMAN
SCULLY SCOTT MURPHY AND PRESSER
400 GARDEN CITY PLAZA
GARDEN CITY, NY 11530

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MAR 15 2006

OFFICE OF PETITIONS

In re Application of :
Yoshinao Kobayashi et al :
Application No. 10/373,475 : ON PETITION
Filed: February 25, 2003 :
Attorney Docket No. JP920010263US1(16299) :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 9, 2006, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 15, 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 2811 for processing of the request for continued examination under 37 CFR 1.114.

Wan Laymon
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).

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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JACKSON WALKER, L.L.P.
112 E. Pecan Street, Suite 2100
San Antonio, TX 78205

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SEP 2 3 2004

OFFICE OF PETITIONS

In re Application of :
Paul Corbeil :
Application No. 10/373,486 : ON PETITION
Filed: February 24, 2003 :
Attorney Docket No. P-3043.06 :

This is a decision on the petition under 37 CFR 1.137(b), filed June 17, 2004, to revive the above-identified application.

The petition is **dismissed as moot**.

A review of the record reveals that on February 24, 2003, authorization was given to charge any deficiency in fees to petitioner's deposit account. Since the Office can construe the authorization as a general authorization[1], $475 for a three (3) months extension of time was charged to petitioner's deposit account. Therefore, the response filed June 4, 2004 is considered as timely filed and the $665 petition fee will be credited to petitioner's deposit account.

The application file is being referred to Technology Center Art Unit 3611 for further review of the amendment filed June 4, 2004.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 308-6711.

Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] *See Changes to Patent Practice and Procedure Section 1.136 - December 1997.*

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KATTEN MUCHIN ROSENMAN LLP
575 MADISON AVENUE
NEW YORK, NY 10022-2585

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DEC 21 2006

OFFICE OF PETITIONS

In re Application of	:	
Hironobu Igarashi et al	:	
Application No. 10/373,494	:	DECISION GRANTING PETITION
Filed: February 21, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. FUJO 20.270	:	

This is a decision on the petition, filed December 14, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on October 10, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2617 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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

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Paper No. 6

SCULLY SCOTT MURPHY & PRESSER, PC
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GARDEN CITY, NY 11530

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SEP 0 8 2003

OFFICE OF PETITIONS

In re Application of :
Paananen, et al. :
Application No. 10/373,504 : ON PETITION
Filed: February 25, 2003 :
Attorney Docket No. 16281 :

This is a decision on the papers styled, "Petition Concerning Omitted Item" filed on June 27, 2003, which is being treated as a petition under 37 CFR 1.53, requesting that the above-identified application be accorded a filing date of February 25, 2003, including Figures 1 and 2 as described in the specification.

The application was filed on February 25, 2003. However, on April 25, 2003, the Office of Initial Patent Examination (OIPE) mailed a "Notice To File Missing Parts" that stated the application had been accorded a filing date, but Figures 1 and 2 as described in the specification appear to have been omitted.

In response, on June 27, 2003, the instant petition and one sheet of drawings containing Figures 1 and 2 as described in the specification were submitted. The papers were accompanied by a copy of applicant's postcard receipt that acknowledges receipt of eight (8) sheets of drawings on February 25, 2003. A review of the application file indicates the presence of only seven (7) sheets of drawings with the first sheet of drawings containing Figures 1 and 2 missing. It is assumed that the first sheet of drawings containing Figures 1 and 2 was misplaced by the Office.

In view of the above, the petition is granted.

The $130.00 petition fee submitted on June 27, 2003 will be refunded to deposit account no. 19-1013.

This application will be returned to OIPE for further processing with a filing date of February 25, 2003, using the one sheet of drawings containing Figures 1 and 2 as described in the specification, supplied on June 27, 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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JJGJr.: 06-05

Paper No. __

WILLIAM J. SAPONE
COLEMAN SUDOL SAPONE P.C.
714 COLORADO AVENUE
BRIDGE PORT CT 06605

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JUN 14 2005

OFFICE OF PETITIONS

In re Application of :
BAE, et al. :
Application No. 10/373,506 :
Filed: 25 February, 2003 : ON PETITION
Attorney Docket No: C33-003 :
:

This is a decision on the petition under 37 C.F.R. §1.78(a)(3), filed on 31 March, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §120 and 35 U.S.C. §365(c) for benefit of priority to prior-filed PCT Application No. PCT/KR02/01273 filed 5 July, 2002, and set forth in the corrected application data sheet (ADS) and amendment submitted concurrently on 31 March, 2005.

The petition is **GRANTED**.

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

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

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

- a statement that the entire delay between the date the claim was due under 37 C.F.R. §1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the above-noted, prior-filed PCT application is submitted after expiration of the period specified in 37 C.F.R. §1.78(a)(2)(ii). Therefore, this is a proper petition under 37 C.F.R. §1.78(a)(3).

The petition complies with the requirements for a grantable petition under 37 C.F.R. §1.78(a)(3) in that (1) a reference to the above-noted, prior-filed PCT application has been included in an amendment to the first sentence of the specification following the title or corrected ADS, as provided by 37 C.F.R. §1.78(a)(2)(iii); (2) the surcharge fee required by 37 C.F.R. §1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay.

Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §120 and §365(c) to the above-noted, prior-filed PCT application satisfies the conditions of 37 C.F.R. §1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 C.F.R. § 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed 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 C.F.R. §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.

This application is being forwarded to the examiner of Technology Center 1700 for appropriate action on the corrected ADS filed on 31 March, 2005, including consideration of applicant's entitlement to claim benefit of priority under 35 U.S.C. §120 and §365(c) to the above-noted, prior-filed PCT application.

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

Application No. 10/373,506

Inquiries concerning this decision may be directed to John Gillon, Senior Attorney, Office of Petitions at (571) 272-3214.

Frances Hicks
Petitions Examiner
Office of Petitions

Encl.: Corrected Filing Receipt

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Paper No. None

NOVOZYMES NORTH AMERICA, INC.
500 FIFTH AVENUE
SUITE 1600
NEW YORK NY 10110

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JAN 19 2007

OFFICE OF PETITIONS

In re Application of	:	
Martin Riegels et al.	:	
Application No. 10/373,510	:	DECISION ON PETITION
Filed: February 25, 2003	:	UNDER 37 C.F.R. §1.137(B)
Attorney Docket Number:	:	
4598.224-US	:	
Title: ENZYMATIC HYDROLYSIS OF	:	
CYCLIC OLIGOMERS	:	

This is a decision on the petition filed September 5, 2006, pursuant to 37 C.F.R. §1.137(b)[1], to revive the above-identified application.

The above-identified application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed April 26, 2006, which set a shortened statutory period for reply of three months. No extensions of time are permitted for transmitting issue and publication fees[2]. Accordingly, the

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1 A grantable petition pursuant to 37 C.F.R. §1.137(b) must be accompanied by:

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

2 See MPEP §710.02(e).

above-identified application became abandoned on July 27, 2006. A Notice of Abandonment was mailed on October 12, 2006.

With the present petition, Petitioner has submitted the petition fee, the issue and publication fees, and the proper statement of unintentional delay. No terminal disclaimer is required.

As such, the petition under 37 C.F.R. §1.137(b) 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 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 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. §1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

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GENTECH, INC.
1 DNA WAY
SOUTH SAN FRANCISCO, CA 94080

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OFFICE OF PETITIONS

In re Application of :
Ghilardi et al. :
Application No.: 10/373512 : ON PETITION
Filing or 371(c) Date: 02/24/2003 :
Attorney Docket Number: P2924-1R1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 8, 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 August 1, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed May 1, 2007. Accordingly, the date of abandonment of this application is August 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 payment of the issue fee and the publication fee; (2) the petition fee; and (3) a proper statement of unintentional delay.

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

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

Derek L. Woods
Attorney
Office of Petitions

ks

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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.
10/373,515	02/25/2003	Bernhard Freund	3/430-3C3	7616

28503 7590 02/11/2005

MICHAEL P. MORRIS
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RIDGEFIELD, CT 06877-0368

EXAMINER
HAGHIGHATIAN, MINA

ART UNIT	PAPER NUMBER
1616	

DATE MAILED: 02/11/2005

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

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Boehringer Ingelheim Corporation
900 Ridgebury Road
P.O. Box 368
Ridgefield, CT 06877-0368

In re Application of	:
Bernhard Freund et al.	:
Serial No.: 10/373,515	: PETITION UNDER 37 CFR 1.136(b)
Filed: February 25, 2003	:
Attorney Docket No.: 3/430-3C3	:

This is in response to applicant's petition filed February 2, 2005, to request a two (2) month extension of time to provide a showing of prior invention under 37 CFR 41.202(d).

The petition is **GRANTED**. Applicant is hereby given an additional two (2) months from the date of the Office Action mailed December 14, 2004 to make a showing under 37 CFR 41.202(d).

Should there be any questions with regard to this letter please contact Amy J. Nelson by letter addressed to the Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0804 or by facsimile transmission to the general Office facsimile number.

Bruce Kisliuk
Director
Technology Center 1600

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Paper No.

FLIESLER MEYER, LLP
FOUR EMBARCADERO CENTER
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SAN FRANCISCO, CA 94111

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FEB 15 2006

OFFICE OF PETITIONS

In re Application of
Paul Patrick
Application No. 10/373,532
Filed: February 24, 2003
Attorney Docket No. BEAS-01400US0SRM/DJB

: DECISION ON APPLICATION
: FOR
: PATENT TERM ADJUSTMENT

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705" filed September 15, 2005. Applicant requests that the initial determination of patent term adjustment be corrected from one hundred nine (109) days to one hundred eighty-eight (188) days.

The application for patent term adjustment is **GRANTED** to the extent indicated herein.

On August 8, 2005, the Office mailed the Notice of Allowance with a patent term adjustment of one hundred nine (109) days. On September 15, 2005, applicant timely[1] submitted the instant request for reconsideration of the patent term adjustment. Applicant requests that the 109 day adjustment be corrected to 188 days as applicant's response was filed on October 4, 2004, not December 20, 2004. Applicant contends that there were no circumstances during the prosecution of this application constituting a failure to engage in reasonable efforts to conclude processing or examination of the application.

Applicant states that the application is not subject to a terminal disclaimer.

A review of the record reveals that the response to the Office action mailed August 31, 2004, was received in the Office on October 4, 2004, within the three-month period set forth in § 1.704(b). A copy of the response was made of record with a date of December 20, 2004 associated therewith. Under the circumstances, the October 4, 2004 date is the proper date to be used in calculating applicant delay. Accordingly, the patent term adjustment should not have been reduced by 20 days for applicant taking in excess of three months to respond to the Office action mailed August 31, 2004.

---

[1] PALM records indicate that the Issue Fee payment was also received on September 15, 2005.

Moreover, given that the response was received October 4, 2004, there is a further basis for entry of a period of adjustment. As stated by applicant, the Office took action in response, mailing a non-final rejection on April 4, 2005, four months and 59 days later. Accordingly, the application is entitled to an additional period of adjustment of 59 days pursuant to §1.703(a)(2).

However, the record also reveals a basis for entry of a period of reduction. A review of the application history reveals that the patent term adjustment should be reduced by seventeen (17) days due to applicants' failure to engage in reasonable efforts to conclude prosecution. According to §1.704(c)(8) the submission of a supplemental reply or other paper after a reply has been filed constitutes a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application. The submission of a supplemental reply or other paper (e.g., an information disclosure statement (IDS) or petition) after an initial reply is filed requires the Office to restart consideration of the initial reply in view of the supplemental reply or other paper, which will result in a delay in the Office's response to the initial reply. § 1.704(c)(8) also provides that in such a case the period of adjustment shall be reduced by the number of days, if any, beginning on the day after the date the initial reply was filed and ending on the date that the supplemental reply or such other paper was filed. However, § 1.704(d) establishes that the filing of an IDS will not be considered a failure to engage in reasonable efforts to conclude prosecution of the application under (c)(8) if it is accompanied by a statement that each item of information contained in the IDS was first cited in a communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the IDS. A review of the application record confirms that after having filed the initial response on October 4, 2004, applicant submitted an IDS, which was not accompanied by a § 1.704(d) statement on October 21, 2004, seventeen (17) days later.

In view thereof, the patent term adjustment at the time of the mailing of the notice of allowance is ONE HUNDRED SEVENTY-ONE (171) days (188 days of Office delay reduced by 17 days of applicant delay).

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petition

Enclosure: Copy of REVISED PAIR Screen

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LUCAS & MERCANTI LLP
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NEW YORK, NY 10016

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SEP 21 2006

OFFICE OF PETITIONS

In re Application of :
Val Krukonis et al :
Application No. 10/373,542 : DECISION GRANTING PETITION
Filed: February 25, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 224.0523-US :

This is a decision on the petition, filed September 19, 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 26, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 1654 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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

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BAKER BOTTS LLP
2001 ROSS AVENUE
SUITE 600
DALLAS, TX 75201-2980

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JAN 0 5 2006

OFFICE OF PETITIONS

In re Application of :
Billy G. Moon et al :
Application No. 10/373,559 : DECISION GRANTING PETITION
Filed: February 24, 2003 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 062891.0894 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 30, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publications fees on or before September 22, 2005, as required by the Notice of Allowance and Fee(s) Due, mailed 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 payment of the issue and publication fees ($1,400 and $300, respectively); (2) the petition fee of $1,500; and (3) the required statement of unintentional delay have been received. Accordingly, payment of the issue and publication fees is accepted as having been unintentionally delayed.

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

This matter is being referred to Publishing Division.

Frances Hicks
Petitions Examiner
Office of Petitions

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UNITED STATES PATENT AND TRADEMARK OFFICE

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

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APR 07 2005

OFFICE OF PETITIONS

In re Application of :
Carl J. Giardino et al :
Application No. 10/373,587 : ON PETITION
Filed: February 25, 2003 :
Attorney Docket No. RD7605 US CNT 1 :

This is a decision on the petition, filed March 29, 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.

The application is hereby withdrawn from issue, and the abandonment is hereby recognized.

Telephone inquiries should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Files Repository.

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

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OFFICE OF PETITIONS

MAYER & WILLIAMS PC
251 NORTH AVENUE WEST
2ND FLOOR
WESTFIELD, NJ 07090

In re Application of :
Ravichandran Iyer et al :
Application No. 10/373,594 : DECISION ON PETITION
Filed: February 25, 2003 :
Attorney Docket No. PH01-01-06 CON :

This is a decision on the petition, filed February 5, 2007, which is being treated as a petition under 37 CFR 1.8(b), 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 non-final Office action of June 29, 2006.

Petitioner states that a timely reply was mailed via certificate of mailing on December 29, 2006, which included the following papers: Response to Office Action, Listing of Claims and Remarks. Petitioner has submitted a copy of the previously mailed correspondence, which bears a certificate of mailing dated and the USPTO stamp received on December 29, 2006, which is timely received.

The petition satisfies the above requirements of 37 CFR 1.8(b). Accordingly, the holding of abandonment for failure to timely file a reply to the June 29, 2006 is hereby withdrawn and the application restored to pending status.

This application is being referred to Technology Center AU 2613 for further processing.

Irvin Dingle
Petition Examiner
Office of Petitions

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SHANE TAYLOR
128 RUSSELL STREET
HADLEY MA 01035

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OCT 0 8 2003

OFFICE OF PETITIONS

In re Application of :
Soule, et al. :
Application No. 10/373,597 :
Filed: February 25, 2003 : LETTER
Attorney Docket No. 071288.0016 :
For: SWIRL UNIT, ORIFICE PLATE, :
AND SPRAY NOZZLE INCLUDING SAME :

Dear Mr. Taylor:

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: MCCARTER & ENGLISH LLP
CITYPLACE I
185 ASYLUM STREET
HARTFORD CT 06103

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MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

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MAR 0 4 2005

OFFICE OF PETITIONS

In re Application of :
Mike Konickson et al :
Application No. 10/373,601 :
Filed: February 24, 2003 :
Attorney Docket No. 7432.184US01 :

ON PETITION

This is a decision on the petition, filed February 24, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

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

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

The examiner of Technology Center AU 3617 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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SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVE
SUITE 5400
SEATTLE, WA 98104

Mail Date: 04/21/2010

Applicant	: Peixuan Guo	: DECISION ON REQUEST FOR
Patent Number	: 7655787	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/373,612	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/24/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **864** 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

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FEB 2 7 2009

OFFICE OF PETITIONS

In re Application of :
Mirshahi, et al. :
Application No. 10/373,614 : ON PETITION
Filed: February 25, 2003 :
Attorney Docket No. EGYP 3.9-028 CONT :
For: METHOD FOR IN VITRO ASSAY OF SOLUBLE FIBRIN BY GENERATING SPECIFIC DEGRADATION PRODUCTS

This is a decision on the petition under 37 CFR 1.181, filed January 21, 2009 (certificate of mailing date January 14, 2009), requesting that the Office withdraw the holding of abandonment in the above-identified application.

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

This application was held abandoned for failure to respond in a timely manner to the non-final Office action, mailed June 27, 2008, which set forth an extendable three (3) month period for reply. The Office contended that this application became abandoned on September 28, 2008 for failure to reply to the June 27, 2008 non-final Office action. A Notice of Abandonment was mailed on January 5, 2009.

Petitioners request withdrawal of the holding of abandonment based on the assertion that a petition for a three month extension of time, an amendment, and authorization to charge the $1,100.00 three month extension fee and the $104.00 in additional claim fees were filed on certificate of mailing date December 29, 2008 (a Monday) and received in the Office on January 2, 2009.

The undersigned finds this argument completely convincing, as these documents are present in the application file and Office financial records shows that the required three month extension of time fee of $1,100.00 and the $104.00 additional claim fee were charged on January 2, 2009. The amendment and the extension of time contain certificates of mailing bearing a December 29, 2008 date of deposit.

Under 37 C.F.R. § 1.8(a)(1) correspondence is considered timely filed if: (1) the correspondence is mailed or transmitted prior to expiration of the set period for response by being properly addressed to the Patent and Trademark Office as set out in 37 C.F.R. § 1.1(a) and deposited with the U.S. Postal Service with sufficient postage as first class mail or transmitted to the Patent and Trademark Office in accordance with 37 C.F.R. § 1.6(d); and (2) the correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The person signing the certificate should have a reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated.

The amendment and petition for extension of time bear proper certificates of mailing, dated December 29, 2008, in compliance with the requirements of 37 C.F.R. § 1.8(a)(1) as set forth above. The attorney of record executed the certificates of mailing.

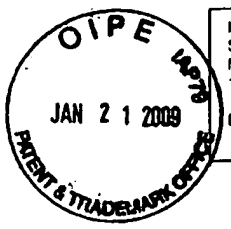
Accordingly, the petition under 37 CFR 1.181 is **GRANTED**, the holding of abandonment is withdrawn, and the January 5, 2009 Notice of Abandonment is vacated. No petition fee has been or will be charged in connection with this matter.

After the mailing of this decision, the application file will be returned to Technology Center A.U. 1657 for consideration of the amendment filed on certificate of mailing date December 29, 2008.

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

1 FW DAS



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

Dated: January 14, 2009 Signature: Arnold H. Krumholz

Docket No.: EGYP 3.9-028 CONT (PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Bibi Shah Soltan Mirshahi, et al

Application No.: 10/373,614 Confirmation No.: 4490

Filed: February 25, 2003 Art Unit: 1657

For: METHOD FOR IN VITRO ASSAY OF SOLUBLE FIBRIN BY GENERATING SPECIFIC DEGRADATION PRODUCTS Examiner: A. P. Wood

PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 C.F.R. 1.181 (a)

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

Dear Sir:

Attorneys for the above-identified applicant received a Notice of Abandonment mailed January 5, 2009 for failure to timely file a response to the Office Action mailed on June 27, 2008. However, the Amendment, Amendment Transmittal and a Three-Month Request for Extension of Time under 37 CFR 1.136(a) were timely mailed to the Patent and Trademark Office on December 29, 2008 in response to said Office Action.

Attached hereto are copies of the Amendment, Amendment Transmittal and Three-Month Request for Extension of Time under 37 CFR 1.136(a) and a postcard indicating receipt in the Patent and Trademark Office on January 2, 2009.

Adjustment Date: 02/17/2009 CKHLOK
01/02/2009 HVUONG1 00000020 121095 10373614
01 FC:1253 1110.00 CR
02 FC:1202 104.00 CR

02/17/2009 CKHLOK 00000012 121095 10373614

01 FC:1253 1110.00 DA
02 FC:1202 104.00 DA

It is therefore believed that evidence has been submitted to establish that a response to the Office Action mailed June 27, 2008 was timely filed, and is therefore respectfully requested that prosecution on the above-identified application be reopened.

If there are any fees due in connection with this communication, please charge same to our Deposit Account No. 12-1095.

Dated: January 14, 2009

Respectfully submitted,

By _____

Arnold H. Krumholz
Registration No.: 25,428
LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK, LLP
600 South Avenue West
Westfield, New Jersey 07090
(908) 654-5000
Attorney for Applicant

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Paper No. 12

ROSS J. OEHLER
AVENTIS PHARMACEUTICALS INC.
ROUTE 202-206
MAIL CODE: D303A
BRIDGEWATER, NJ 08807

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OCT 15 2003

OFFICE OF PETITIONS

In re Application of :
Jockers, et al. :
Filed: February 25, 2003 : ON PETITION
Application No. 10/373,624 :
Atty. Dkt. No.: FRAV20020002 :

This decision in response to the petition filed July 17, 2003 in response to the "Notice of Incomplete Nonprovisional Application ("Notice") mailed May 19, 2003 to accord the above-identified application a filing date of February 25, 2003.

The application was submitted February 25, 2003. The Notice mailed May 19, 2003 by the Office of Initial Patent Examination notified applicant, *inter alia*, that the application had not been accorded a filing date as the application appeared to have been deposited without drawings as required under 35 USC 113.

In response, the present petition was filed wherein petitioner argues that the application as deposited included six (6) sheets of drawings. Petitioner has included as proof of mailing and proof of receipt of the referenced drawings a return postcard date stamped by the Office on February 25, 2003. A copy of the original drawing sheets purportedly filed with the application on February 25, 2003 was also supplied.

The original drawing sheets submitted with the application papers have not been located. However, in view of the evidence presented, the petition to accord the application a filing date of February 25, 2003 is GRANTED.

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

No petition fee is due in connection with this matter.

This application will be returned to the Office of Initial Patent Examination for further processing with a filing date of February 25, 2003.

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

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

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SCHWARTZ COOPER CHARTERED
IP DEPARTMENT
180 NORTH LASALLE STREET
SUITE 2700
CHICAGO, IL 60601

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MAR 25 2008

OFFICE OF PETITIONS

In re Application of :
David F. Winchell :
Application No. 10/373,631 : ON PETITION
Filed: February 24, 2003 :
Attorney Docket No. 54416-7002 :

This is a decision in response to the petition, filed December 5, 2007, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for a failure to reply in a timely manner to a non-final Office action mailed February 28, 2006. A Notice of Abandonment was mailed on November 15, 2006. On December 5, 2007, the present petition was filed.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $770; and (3) an adequate statement of unintentional delay.

The application is being referred to Technology Center AU 2113 for consideration of the amendment filed December 5, 2007.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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NORRIS MCLAUGHLIN & MARCUS, P.A.
P O BOX 1018
SOMERVILLE NJ 08876

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DEC 17 2004

OFFICE OF PETITIONS

In re Application of
Anderson et al.
Application No. 10/373,664
Filed: February 24,, 2003
For: Compressor Stator Vane
Attorney Docket No: 2077-162US
Pub. No.: US 2003/0231957 A1
Pub. Date: December 23, 2003

: Decision on Petition

This is in response to the "Petition Under 37 CFR 1.182 and 1.183 Requesting an Interpretation, or Alternatively a Waiver, of 37 CFR 1.221(b) to Provide for Republication of Patent Application Publication US 2003/0231957" filed on March 25, 2004.

The request is DISMISSED.

The instant request is that the application be republished because the patent application publication includes six (6) of the original filed twenty four (24) drawings.

Petitioner states that on or about December 23, 2003, he became aware that the application published with only six of the original twenty four drawings and that on or about January 15, 2004 he contacted Ms. Robinson at the PTO and that she said she would inform the proper persons at the PTO about correcting the error. Petitioner states that on or about January 23, 2004, in a telephone conference with Ed Look, he was told that the hard copy of the application would be rescanned to capture the missing drawings to provide that the electronic version of the application includes all of the originally filed drawings. Petitioner states that he believed that this meant that the published patent application would be republished. Petitioner further states that on or about February 14, 2004, he discovered that the application had not been republished and that he contacted Mr. Look to discover the status of the republication. Petitioner states that based on continuing correspondence between Mr. Look and himself, which continued into March 2004, the undersigned learned that the originally filed hard copy of the application had been rescanned such that the missing drawings were now available in electronic form for the PTO, but that it was not available on the PTO website. Petitioner states that on March 17, 2004, in a telephone conference with Mr. Look, he said that he would continue to look into it.

Petitioner argues that since he initially contacted the examiner within the two month time limit to file a corrected publication request to correct an error that is solely the fault of the PTO that his correspondence with the examiner that he had a good faith belief that such correspondence would cause the application to be republished. Therefore a written petition requesting republication of the patent application notifying the PTO of the errors would have been redundant and therefore not filed.

Petitioner argues that the circumstance led him to develop and have a good faith belief that the application would be republished. Petitioner argues that it was not until February 18, 2004 after the expiration of the time period that he did not have any reason to believe that his efforts would not result in a republication of the application but only lead to the application being rescanned into the Office system. Petitioner argues that under these circumstances the requirements of 37 CFR 1.221(b) should be found to be satisfied and that in the alternative, the PTO should suspend the requirements because the PTO's new procedures for scanning applications to provide public viewing of the applications on the PTO website are not fully operational and that the steps taken by applicants attorney caused him to develop a good faith belief that the PTO would republish the application.

37 CFR 1.221(b) states "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." .[1] The request for corrected publication received on March 25, 2004, was not timely filed under 37 CFR 1.221(b), and has not been considered because it was not timely filed.

The application was published on December 18, 2003. Petitioner alleges that this request should be treated as having fulfilled the requirements of 37 CFR 1.221(b) because he had many conversations with Office personnel before the expiration of the two month time period and he was under a good faith belief that the application was being republished. Business to be conducted before the United States Patent and Trademark Office is to be transacted in writing. See 37 CFR 1.2 and 37 CFR 1.4. The telephone conversations cannot be considered to have been a request for a corrected publication because it was not in writing. Therefore the requirements of 37 CFR 1.221(b) have not been satisfied.

Petitioner's states that in the alternative, this petition should be treated as a petition requiring suspension of the rules under 37 C.F.R. § 1.183. Suspension of the rules may be granted only "[i]n an extraordinary situation, when justice requires ...." The rule places the determination of whether a situation is "extraordinary," and whether justice requires waiver, within the discretion of the Director. *Nitto Chem. Indus. Co. v. Comer,* 39 USPQ2d 1778, 1780 n.4 (D.D.C. 1994). The facts presented on the record do not establish an extraordinary situation within the meaning of § 1.183. Petitioner was aware of the error with the missing drawings within the appropriate period of time for filing a request for a corrected publication. Petitioner has not provided any evidence that he was prevented from filing a request for a corrected publication before the expiration of the two month period. Petitioner argues that he telephoned Office personnel, and

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

that his correspondence with Office personnel caused him to have a good faith belief that the application would be republished. However, according to facts as presented by Petitioner, he was told by Mr. Look on or about January 23, 2004 that he would have the application rescanned to electronically capture the originally filed drawings, not that the application would be republished. Thus, in weighing the contribution of Petitioner toward his failure to realize that he needed to file a written request for a corrected publication and his misunderstanding from the conversation between himself and the examiner when the examiner told him that the application would be rescanned into the Image File Wrapper, waiver of the requirement of § 1.2 for conducting business in writing and the nonextendable time period for requesting corrected publication of 37 C.F.R. § 1.221(b) pursuant to 37 C.F.R. § 1.183 in this situation is not justified. Equitable powers should not be invoked to excuse the performance of a condition by a party that has not acted with reasonable due care and diligence. *United States v. Lockheed Petroleum Servs.*, 709 F.2d 1472, 1475 (Fed. Cir. 1983). Furthermore, Petitioner may make a request for republication under 37 CFR 1.221(a).[2] In this application, Petitioner has not established special circumstances or equities that would require suspension of the rules in the interests of justice.

The rules and statutory provisions governing the operations of the U.S. Patent and Trademark Office require payment of a fee on filing each petition. *See* 35 U.S.C. § 41(a)(7). The petition fee ($130) has been paid.

Questions or request for reconsideration of this decision, should be addressed as follows:

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

By facsimile: (703) 872-9306

Inquires concerning this communication should be directed to Mark Polutta at (571) 272-7709.

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

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

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P.O. BOX 19076
ALEXANDRIA, VA 22320

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OCT 0 3 2005

OFFICE OF PETITIONS

In re Application of :
Devesh Mathur, et al. :
Application No. 10/373,697 : ON PETITION
Filed: February 27, 2003 :
Attorney Docket No. :

This is a decision on the petition to Withdraw from Holding of Abandonment under 37 CFR 1.181 filed on April 29, 2005 and in the alternative, a decision on the petition under 37 CFR 1.137(b), to revive the above-identified application.

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

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

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed December 10, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on March 11, 2005.

Applicant asserts that the issue fee was timely paid on January 31, 2005, as evidenced by a copy of a return postcard, which acknowledges receipt by the US Patent and Trademark Office. Applicant alleges that the undersigned representative filed an issue fee transmittal form authorizing the issue fee and publication fee to be charged to his deposit account. Applicant acknowledges that the balance in the deposit account was insufficient to cover the charge of the issue and publication fees on January 31, 2005. Applicant asserts that the undersigned representative did not receive a notice from the US Patent and Trademark Office informing them that the balance was insufficient. Accordingly, applicant undersigned representative had no knowledge of insufficiency until the Notice of Abandonment was received on April 18, 2005.

A review of the file record discloses that the US PTO received the Issue Fee Transmittal Forms PTOL-85b on January 31, 2005. An attempt was made to charge applicant's deposit account, however, due to insufficient funds, the US PTO was unable to charge the issue and publication fees.

Applicant has not complied with 37 CFR 1.25 which states that, "An authorization to charge a fee to a deposit account will not be considered payment of the fee on the date the authorization to

charge the fee is effective as to the particular fee to be charged unless sufficient funds are present in the account to cover the fee." In view thereof, the holding of abandonment in the above-identified application was proper and will not be withdrawn.

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; (2) the petition fee of $1500; and (3) the required statement of unintentional delay have been received. Accordingly, the issue fee is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

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

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
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

ERIC ROBINSON
PMB 955
21010 SOUTHBANK STREET
POTOMAC FALLS, VA 20165

COPY MAILED

AUG 2 4 2004

OFFICE OF PETITIONS

In re Application of :
Jun Koyama et al :
Application No. 10/373,722 : DECISION GRANTING PETITION
Filed: February 27, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 0756-7115 :

This is a decision on the petition, filed August 23, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 3, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

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 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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ERIC ROBINSON
PMB 955
21010 SOUTHBANK STREET
POTOMAC FALLS, VA 20165

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AUG 24 2004

OFFICE OF PETITIONS

In re Application of	:	
Jun Koyama et al	:	
Application No. 10/373,722	:	DECISION GRANTING PETITION
Filed: February 27, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 0756-7115	:	

This is a decision on the petition, filed August 23, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 3, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

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 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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APR 20 2007

TECHNOLOGY CENTER 3600

Oblon, Spivak, McClelland, Maier & Nuestadt, P.C.
1940 Duke Street
Alexandria, VA 22314

In re application of : **DECISION ON PETITION**
Yasuhiro Iwamura et al. : **FOR SUSPENSION**
Application No. 10/373,723 : **OF ACTION UNDER**
Filed: February 27, 2003 : **37 CFR 1.103 (a)**
For: NUCLIDE TRANSMUTATION DEVICE AND NUCLIDE TRANSMUTATION METHOD

This letter is responsive to the petition for a second suspension of action under 37 CFR 1.103(a) received on November 29, 2006.

The petition for suspension of action under 37 CFR 1.103(a) is **GRANTED**.

A grantable petition for suspension of action under 37 CFR 1.103(a) requires:

1) A showing of good and sufficient cause for suspension of action, and
2) The fee set forth in 37 CFR 1.17(g), unless such cause is the fault of the Office.

A petition was filed on May 22, 2006 to suspend action for three months under 37 CFR 1.103(c). That petition was granted on May 30, 2006.

The instant petition under 37 CFR 1.103(a) requests a suspension of an additional six months. The reason for the request is that the U.S. Naval Research Laboratory (NRL) has been conducting a cooperative research with Mitsubishi Heavy Industries, Ltd. Since May 20, 2005 on the nuclide transmutation technique, and the cooperative research will be continued till May 2007. Applicants indicate that such research will produce results in support of operability of the present invention.

There being ongoing research which may materially impact a decision on the operability of applicants' invention, it is deemed that the existence of these endeavors constitute a good and sufficient reason why a second suspension should be granted, and thus the petition for an additional period of suspension of six (6) months is reasonable and will be **GRANTED**.

Action by the Office on this application is suspended under 37 CFR 1.103(a) for a period of six (6) months from the date of this letter. At the end of this period, applicants are required to notify the examiner and request commencement of prosecution or a further suspension. See MPEP 709. If applicants wish to commence prosecution earlier than the expiration of the 6-month period, the examiner should be so notified.

The period for suspension will be six (6) months from the date of this letter.

Applicants' deposit account 15-0030 has been charged the required petition fee of $200.00 under 37 CFR 1.17(g).

Any questions surrounding this decision should be directed to Quality Assurance Specialist Kenneth J. Dorner at (571) 272-6587.

Donald Hajec, Director
Technology Center 3600
(571) 272-5150

kjd: 4/17/07

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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.
10/373,723	02/27/2003	Yasuhiro Iwamura	233523US2DIV	7012

22850 7590 03/05/2008

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER	
MONDT, JOHANNES P	

ART UNIT	PAPER NUMBER
3663	

NOTIFICATION DATE	DELIVERY MODE
03/05/2008	ELECTRONIC

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

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

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com
oblonpat@oblon.com
jgardner@oblon.com

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Oblan, Spivak, McClelland, Maier & Nuestadt, P.C.
1940 Duke Street
Alexandria, VA 22314

MAILED
FROM DIRECTORS OFFICE

MAR 0 4 2008

TECHNOLOGY CENTER 3600

In re application of
Yasuhiro Iwamura et al.
Application No. 10/373,723
Filed: February 27, 2003
For: NUCLIDE TRANSMUTATION DEVICE AND NUCLIDE TRANSMUTATION METHOD

DECISION ON PETITION FOR THIRD SUSPENSION OF ACTION UNDER 37 CFR 1.103 (a)

This letter is responsive to the petition for a third suspension of action under 37 CFR 1.103(a) received on October 22, 2007.

The petition for suspension of action under 37 CFR 1.103(a) is **GRANTED.**

A grantable petition for suspension of action under 37 CFR 1.103(a) requires:

1) A showing of good and sufficient cause for suspension of action, and
2) The fee set forth in 37 CFR 1.17(g), unless such cause is the fault of the Office.

Applicant filed a petition on May 22, 2006 to suspend action by the examiner until a cooperative experiment could be conducted by an Independent Administrative Institution, RIKEN, which experiment has apparently since been completed. A decision granting a 6 month suspension was mailed May 30, 2006. In a subsequent petition filed November 29, 2006, the applicant indicates that additional cooperative research between the U.S. Naval Research Laboratory (NRL) and Mitsubishi Heavy Industries, Ltd on the subject matter of applicant's invention has been ongoing since May 20, 2005 and scheduled to continue until May 2007. This second petition was granted on April 20, 2007. The instant petition indicates that the above research has not been completed and the experimental results cannot be provided at this time. The applicant believes that the result of the research will provide experimental results in support of operability of the present invention that applicant would like to submit upon it's publication.

There being ongoing research which may materially impact a decision on the operability of applicant's invention, it is deemed that the existence of these endeavors constitute a good and sufficient reason why a third suspension should be granted, and thus applicants' request for an additional period of suspension of six (6) months is reasonable and will be **GRANTED**.

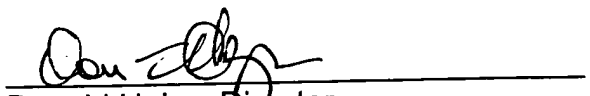
However, at the conclusion of this latest period of suspension, applicant will have had 27 months of time to complete the experimental testing. Suspensions of action cannot go on indefinitely. As a result, applicant should not expect to receive another suspension at the conclusion of this latest 6 month suspension period. Any such future request will need to go into specific detail as to what experimental procedures have taken place, when they occurred, what procedures are yet to be completed, and why they could not have been completed by the end of this suspension period. Specific evidence would need to be provided as to why non-completion of the required testing by the end of 27 months was unavoidable.

Action by the Office on this application is suspended under 37 CFR t .103(a) for a period of six (6) months from the date of this letter. At the end of this period applicant is required to notify the examiner and request commencement of prosecution or a further suspension. See MPEP 709. If applicant wishes to commence prosecution earlier than the expiration of the 6 month period, the examiner should be so notified.

The period for suspension will be six (6) months from the date of this letter.

Applicant's deposit account 15-0030 has been charged the balance of the required petition fee of $200.00 under 37 CFR 1.17(g).

Any questions surrounding this decision should be directed to Quality Assurance Specialist Teri P. Luu at (571) 272-7045.



Donald Hajec, Director
Technology Center 3600
(571) 272-5150

tpl: 02/28/08

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VOLENTINE & WHITT PLLC
ONE FREEDOM SQUARE
11951 FREEDOM DRIVE SUITE 1260
RESTON VA 20190

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OCT 09 2007

OFFICE OF PETITIONS

In re Application of
Green et al.
Application No. 10/373,768
Filed: 02/27/2003
Attorney Docket No. WLJ.087

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 4, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision.

This application became abandoned for failure to file a timely and proper reply within the meaning of 37 CFR 1.113 to the final Office action of May 4, 2006. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). Petitioners obtained an extension of time for response within the second month pursuant to the provisions of 37 CFR 1.136(a). Accordingly, the date of abandonment of this application is October 5, 2006. The Office mailed a Notice of Abandonment on January 5, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal; (2) the petition fee; and (3) a proper statement of unintentional delay.

Pursuant to 37 CFR 1.136, a request for an extension of time must be filed before the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, the Office will credit the Deposit Account for the $450.00 extension of time fee paid on December 4, 2006. Furthermore, the Office will refund the Deposit Account for the duplicate payment of the Notice of Appeal fee of $500.00 paid on June 4, 2007.

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

This application is being referred to Technology Center AU 3632 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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APR 07 2009

VOLENTINE & WHITT PLLC
ONE FREEDOM SQUARE
11951 FREEDOM DRIVE SUITE 1260
RESTON, VA 20190

Paper No. 20090321

In re Application of
Green et al.

ON PETITION TO WITHDRAW REOPENING OF PROSECUTION AFTER APPEAL UNDER 37 CFR 1.181

Appl. No. 10/373,768
Filed: February 27, 2003
For: PEDESTAL

This is a decision on Applicant's Petition under 37 CFR 1.181 filed on October 21, 2008 to review the Examiner's reopening of prosecution after the filing of an Appeal Brief on June 30, 2008; wherein Examiner issued an Office Action on October 16, 2008 that reopened prosecution for the express purpose of issuing a new restriction requirement.

The Petition is **GRANTED.**

A review of the record indicates that on March 10, 2008, Applicants filed an original Appeal Brief. On May 30, 2008, Examiner issued a communication stating that the original Appeal Brief was non-compliant due to informalities. Applicants subsequently filed a substitute Appeal Brief on June 30, 2008. On October 16, 2008, the Examiner issued an Office Action that reopened prosecution for the purpose of issuing a new restriction requirement among the appealed claims. No new grounds of rejection were presented in this Office Action.

Applicants contend that reopening prosecution to issue a new restriction requirement among the appealed claims after submission of the Appeal Brief was improper. MPEP § 1207.04 states that "*the examiner may, with approval from the supervisory patent examiner, reopen prosecution to enter a new ground of rejection after Appellant's brief or reply brief has been filed.*" A restriction requirement is not an action on the merits and does not constitute "grounds of rejection". Therefore, the reopening of prosecution to issue a restriction requirement was not authorized, and thus, the restriction requirement reopening prosecution will be withdrawn.

Applicants contend examiner's restriction requirement between claims directed to a pedestal (claims 1-6) and claims directed to a clean room (claims 8-14) is improper because the new restriction requirement fails to comply with MPEP §811 and 37

C.F.R. §142(a). MPEP §811 indicates that a restriction requirement "*will normally be made before any action upon the merits; however, it may be made at any time before final action.*" This means that the examiner should make a proper restriction requirement as early as possible in the prosecution, in the first action is possible, otherwise, as soon as the need for a proper requirement develops. Five Office Actions in which both sets of claims were examined on the merits have been made during the prosecution of this application. Therefore, the restriction requirement can not be said to have been made as *"so as the need for a proper requirement develops."* Thus, the restriction requirement mailed on October 16, 2008 is improper.

In view of the findings noted above, the restriction requirement mailed on October 16, 2008 is vacated. Accordingly, the application will be returned to the examiner to answer the Appeal Brief received on June 30, 2008. Examiner will still have the option to reopen prosecution to enter a new ground of rejection with Supervisor approval.

SUMMARY: The Petition is **GRANTED.**

Any questions regarding this decision should be directed to J. Allen Shriver at (571) 272-6698.

Kathy Matecki

Kathy Matecki, Director
Technology Center 3600
(571) 272-5250

Jas/snm : 3/23/2009

SM

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1122204

OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

In re Application of
Robert Jackson
Application No.: 10/373,777
Filed: February 27, 2003
For: **PORTABLE VI PROBE**

WITHDRAWAL FROM ISSUE
37 C.F.R. § 1.313

The above-identified application is withdrawn from issue after payment of the issue fee due to unpatentability of one or more claims. See 37 C.F.R. ∋ 1.313(b)(3).

The above-identified application is hereby withdrawn from issue.

The issue fee is refundable upon request. If, however, the application is again found allowable, the issue fee can be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Fee(s) Due upon written request. This request and any balance due must be received on or before the due date noted in the new Notice of Allowance and Fee(s) Due in order to prevent abandonment of the application.

Telephone inquiries should be directed Nancy Le, Supervisory Patent Examiner, at (571) 272-2233.

The examiner will notify applicant of the new status of this application in an Office action to be issued promptly.

Howard N. Goldberg, Group Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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OFFICE OF PETITIONS

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

In re Application of :
Yoshiharu Sagiya et al :
Application No. 10/373,808 : ON PETITION
Filed: February 27, 2003 :
Attorney Docket No. 115163 :

This is a decision on the petition, filed June 14, 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 May 29, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2625 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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

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#7

Edwin H. Crabtree
3773 Cherry Creek N Dr.
Suite 575
Denver CO 80209

MAILED

APR 1[illegible] 2004

Office of the Director
Group 3600

In re application of :
Barbara M. Torrez :
Application No. 10/373,852 : **DECISION ON REQUEST**
Filed: February 27, 2003 : **FOR WITHDRAWAL OF**
For: FULL-BODY MATTRESS WITH INCLINED : **ATTORNEY**
PORTION AND COVERING FOR SAME

This is a decision on the request filed on January 26, 2004 under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **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 original declaration granted power of attorney to Richard C. Litman. On October 14, 2003 the inventor revoked the previous power of attorney and appointed the petitioner, John L. Isaac, as attorney of record. On January 8, 2004 the inventor filed another revocation and power of attorney revoking power of attorney to Richard C. Litman and appointing Edwin Crabtree, Ramon Pizarro and Donald Margolis. However, Mr. Litman no longer had power of attorney at the time the second revocation was filed. Further, since the second revocation did not explicitly revoke all previous attorneys, namely Mr. Isaac, it cannot be inferred that the second revocation included Mr. Isaac.

Since the request satisfies the requirements of 37 CFR 10.40 and the inventor has retained new representation, the request to withdraw as attorney is **APPROVED**.

Randolph A. Reese
Special Programs Examiner
Patent Technology Center 3600
(703) 308-2121

RAR/mjz: 4/8/04

cc:

John L. Isaac, Esq.
Isaac & Associates
143 Union Blvd., Suite 900
Lakewood, CO 80228-1829

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JJGJr: 09-03

Paper No: 5

HOVEY WILLIAMS LLP
2405 GRAND BLVD., SUITE 400
KANSAS CITY MO 64108

COPY MAILED

SEP 15 2003

OFFICE OF PETITIONS

In re Application of :
Shih, et al. :
Application No. 10/373,897 : DECISION ON PETITION
Filed: 24 February, 2003 :
Attorney Docket No.: 32526 :

This is a decision on the petition (styled as a Petition to Correct Date-In on An Express Mail Mailing Label Under 37 C.F.R. §1.10(d)), filed on 3 June, 2003, and seeking for the above-identified application a filing date of 24 February, 2003, instead of the presently accorded filing date of 25 February, 2003.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.10."

There will be no further reconsideration thereafter.

BACKGROUND AND ANALYSIS

The record reflects that:

- the instant application was received and given a filing date of 25 February, 2003;
- Petitioner's petition recites that attachments/enclosures include a copies of the Transmittal Cover Sheet (Ex. A), the return post card (Ex. B), US Postal Service (USPS) Express Mail Label No. EV161690580US (Ex. C) and USPS Track & Confirm receipt (Ex. D)--nonetheless, the above-referenced documents are not in fact attached to the petition, and, though an attempt was made to access the USPS Track & Confirm data, the

indication is that the data now is stored off-line (printout placed in file);

- it is noted, however, that the application coversheet is in the file and does bear an identification of the instant application with USPS Express Mail Label No. EV161690580US.

A telephone call was placed to Petitioner to make her aware of the absence of the documents in question.

As of this writing, Petitioner has failed to make a satisfactory showing under the regulation.

The renewed petition, if any, must be accompanied by the corroborating evidence required by 37 C.F.R. §1.10.

The instant petition must be and hereby is **dismissed**.

Any future correspondence with regard to this matter under 37 C.F.R. §1.10 should be addressed as follows:

By mail: (Effective 1 May, 2003)[1]
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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

By hand: Crystal Plaza Four, Suite CP4-3C23
2201 South Clark Place
Arlington, VA 22202

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

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

[1] To determine the appropriate addresses for other subject-specific correspondence, refer to the USPTO Web site at www.uspto.gov.

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JJGJr: 09-03

Paper No: 7

HOVEY WILLIAMS LLP
2405 GRAND BLVD., SUITE 400
KANSAS CITY MO 64108

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SEP 30 2003
OFFICE OF PETITIONS

In re Application of :
Shih, et al. :
Application No. 10/373,897 : DECISION ON PETITION
Filed: 24 February, 2003 :
Attorney Docket No.: 32526 :

This is a decision on the "Renewed Petition to Correct Date-In on An Express Mail Mailing Label Under 37 C.F.R. §1.10(d)," filed on 23 September, 2003, and seeking for the above-identified application a filing date of 24 February, 2003, instead of the presently accorded filing date of 25 February, 2003.

The petition is **GRANTED**.

BACKGROUND AND ANALYSIS

The record reflects that:

- the instant application was received and given a filing date of 25 February, 2003;
- Petitioner's original petition recited that attachments/enclosures include a copies of the Transmittal Cover Sheet (Ex. A), the return post card (Ex. B), US Postal Service (USPS) Express Mail Label No. EV161690580US (Ex. C) and USPS Track & Confirm receipt (Ex. D), however, those documents were not in evidence at that reading--and though an attempt was made to access the USPS Track & Confirm data, the indication was that the data now was then stored off-line (printout placed in file)--it is noted now, as it was at that time, that the application coversheet is in the file and does bear an identification of the instant application with USPS Express Mail Label No. EV161690580US;
- as a result, the original petition was dismissed on 15 September, 2003;
- the instant petition is supported by the statement of Petitioner (Tracy L. Bornman (Reg.

No. 42,347), signed by Jennifer C. Bailey (Reg. No. 52,583)), and with documentation inter alia as set forth below, noting that:

> --the USPS Express Mail Label No. EV161690580US was placed on the application transmittal (which, Petitioner notes, was misdated as 21 February, 2003);
>
> --the application was mailed under USPS Express Mail Label No. EV161690580US, and what is alleged to be a copy of that label, while it bears no hand written "date in," does bear a USPS date stamp of "FEB 24 2003";
>
> --an inquiry was made by Petitioner into the USPS Track & Confirm system, which inquiry yielded a printout and what is alleged to be a copy of that document is submitted with a notation that the package under USPS Express Mail Label No. EV161690580US was "ENROUTE, February 24, 2003, 11:32 p.m., Kansas City, MO 64195;
>
> --Petitioner prepared contemporaneously with or within one day of the event Mail Log identifying the instant application with shipment via USPS Express Mail Label No. EV161690580US and submits with the instant petition what purports to be a copy of that Mail Log.

CONCLUSION

Therefore, as to the instant nonprovisional application, Application No. 10/373,897, the Office of Initial Patent Examination is specifically instructed to:

- assign a filing date of 24 February, 2003; and
- issue a filing receipt specifying the filing date as that of 24 February, 2003.

The instant application is being forwarded to OIPE to be handled as set forth above before being forwarded for examination in due course.

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

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

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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CHRISTENSEN, O'CONNOR, JOHNSON, KINDNESS, PLLC
1420 FIFTH AVENUE
SUITE 2800
SEATTLE, WA 98101-2347

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OFFICE OF PETITIONS

In re Application of	:	
Oliver Hamann	:	
Application No. 10/373,923	:	NOTICE
Filed: February 24, 2003	:	
Attorney Docket No. LASE120662		

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

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

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

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

This file is being forwarded to Technology Center 2878 for examination in due course.

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

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

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MAY 18 2005

OFFICE OF PETITIONS

In re Application of :
William D. Killen et al :
Application No. 10/373,935 : ON PETITION
Filed: February 25, 2003 :
Attorney Docket No. 7162-21 :

This is a decision on the petition, filed May 11, 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 27, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2828 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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GLAXOSMITHKLINE
CORPORATE INTELLECTUAL PROPERTY, MAI B475
FIVE MOORE DR., PO BOX 13398
RESEARCH TRIANGLE PARK, NC 27709-3398

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OFFICE OF PETITIONS

In re Application of :
Peter J. Brand, et al. :
Application No. 10/373,950 : ON PETITION
Filed: February 26, 2003 :
Attorney Docket No.: PG3787US2 :

This is a decision on the petition, filed October 27, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on September 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]

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 3743 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date : October 27, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : Peter J. Brand, et al.
Application No. : 10/373,950
Filed : February 26, 2003

The above-identified application has been assigned Patent No. 7,128,068 and an issue date of October 31, 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 October 31, 2006:

> "All reference to Patent No. 7,128,068 to RICHARD K. WILLIAMS, ET AL. of UNITED KINGDOM for DEVICE HOUSING FOR AN AEROSOL CONTAINER appearing in the Official Gazette of October 31, 2006, should be deleted since no patent was granted."

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: Paul Harrison, Crystal Park 3-44l (FAX-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-9l0 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane K.Davis, P/OCS, CM1-6A07
Tamara K. Greene, PK3-910

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POSZ LAW GROUP
12040 SOUTH LAKE DRIVE
SUITE 101
RESTON, VA 20191

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JUL 2 8 2005

OFFICE OF PETITIONS

In re Application of :
Kunihiko Ito et al :
Application No. 10/373,966 : ON PETITION
Filed: February 27, 2003 :
Attorney Docket No. 11-148 :

This is a decision on the petition under 37 CFR 1.183, filed June 9, 2005, which is being treated as a petition under 37 CFR 3.81(b)[1], for issue of patent to the corrected assignee.

The petition is **dismissed**.

Applicants request that the patent issue to **Denso Wave Incorporated, Tokyo, Japan**.

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.

A review of the official file indicates that the instant request was not accompanied by a request for a certificate of correction as required by 3.81(b) but the required fee has been received. Accordingly, the petition cannot be granted.

Upon submission of the required certificate of correction, it would be appropriate for the Office to issue a certificate of correction to correct the front page of the Letters Patent to reflect that Denso Wave Incorporated, Tokyo, Japan was the assignee of record at the time of issuance of the instant application into a patent. *Note also* 35 U.S.C. § 152.

In view of the above and **after issuance of the instant application into a patent, the Certificates of Correction Branch is instructed to issue a certificate of correction upon submission by petitioner of a request for a certificate of correction which sets forth Denso Wave Incorporated, Tokyo, JAPAN as the assignee**. No certificate of correction will be issued which sets forth an assignee other than the assignee set forth in the instant request. A copy of this decision ***must*** accompany the request for a Certificate of Correction.

---

[1] *See* Official Gazette of June 22, 2004

This matter is being referred to the Publishing Division.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3220. After the submission of the request for a certificate of correction to correct the assignee data on the front page of the Letters Patent, any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Patent No. : 7,017,817 B2
Inventor(s) : Kunihiko, Ito
Issued : February 27, 2003
Title : APPATATUS FOR READING INFORMATION CODE
Docket No. : 11-148

Re: Request for Certificate of Correction

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

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

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

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

If the request is granted, Certificates of Correction Branch will be notified that a Certificate of Correction may be issued.
See Manual of Patent Examining Procedure, Section 1481.01 (Rev. 3) (Oct. 2005).

Applicant has not included items A and or C above, accordingly, the request for Certificate of Correction to add or change the assignee data is dismissed.
Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

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

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

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

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

In view of the foregoing, your request is hereby denied. (See attached letter).

Eva James
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) **308-9390 ext. 124** or (703) 305-8309

Posz Law Group, PLC
12040 South Lakes Drive
Suite 101Reston, VA 20191

ej

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POSZ LAW GROUP
12040 SOUTH LAKE DRIVE
SUITE 101
RESTON, VA 20191

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JUL 28 2005

OFFICE OF PETITIONS

In re Application of :
Kunihiko Ito et al :
Application No. 10/373,966 : ON PETITION
Filed: February 27, 2003 :
Attorney Docket No. 11-148 :

This is a decision on the petition under 37 CFR 1.183, filed June 9, 2005, which is being treated as a petition under 37 CFR 3.81(b)[1], for issue of patent to the corrected assignee.

The petition is **dismissed.**

Applicants request that the patent issue to **Denso Wave Incorporated, Tokyo, Japan.**

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.

A review of the official file indicates that the instant request was not accompanied by a request for a certificate of correction as required by 3.81(b) but the required fee has been received. Accordingly, the petition cannot be granted.

Upon submission of the required certificate of correction, it would be appropriate for the Office to issue a certificate of correction to correct the front page of the Letters Patent to reflect that Denso Wave Incorporated, Tokyo, Japan was the assignee of record at the time of issuance of the instant application into a patent. *Note also* 35 U.S.C. § 152.

In view of the above and **after issuance of the instant application into a patent, the Certificates of Correction Branch is instructed to issue a certificate of correction upon submission by petitioner of a request for a certificate of correction which sets forth Denso Wave Incorporated, Tokyo, JAPAN as the assignee.** No certificate of correction will be issued which sets forth an assignee other than the assignee set forth in the instant request. A copy of this decision ***must*** accompany the request for a Certificate of Correction.

---

[1] *See* Official Gazette of June 22, 2004

This matter is being referred to the Publishing Division.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3220. After the submission of the request for a certificate of correction to correct the assignee data on the front page of the Letters Patent, any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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RESTON VA 20191

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OFFICE OF PETITIONS

In re Patent No. 7,017,817
Issued March 28, 2006
Application Number: 10/373,966
Filing Date: February 27, 2003
Attorney Docket Number: 11-148

DECISION ON PETITION

This is a decision on the request for reconsideration filed November 16, 2006, to issue the patent in the name of the assignee. The petition is treated under 37 CFR 3.81 (b)[1].

The petition is **GRANTED**.

Petitioner states that the correct assignee's name is DENSON WAVE INCORPORATED and that the failure to include the correct name of the assignee on the Fee(s) Transmittal form PTOL-85(b) was inadvertent. Accordingly, petitioner requests that a certificate of correction be issued to reflect the correct name of the assignee on the front page of the Letters Patent.

37 CFR 3.81(b), effective June 25, 2004, reads:

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

---

[1]Any request for issuance of an application in the name of the assignee submitted after the date of the payment of the issue fee, and any request that a patent be corrected to state the name of assignee must:

(A) state the assignment was submitted for recordation as set forth in 37 CFR §3.11 before issuance of the patent;

(B) provide a request for a certificate of correction §1.323;
(C) provide the fee set forth in 37 CFR §1.20 (a) and
(D) provide the processing fee set forth in 37 CFR §1.17(i)

A petition under 37 CFR 1.183 was filed June 9, 2005 and dismissed in a decision mailed July 28, 2005 since the request was not accompanied by a certificate of correction.

Office assignment records however, reflect that DENSO WAVE INCORPORATED 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.

The proper fees for the petition and the certificate of correction have been applied.

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

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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REINHART BOERNER VAN DEUREN S.C.
ATTN: LINDA KASULKE, DOCKET COORDINATOR
1000 NORTH WATER STREET
SUITE 2100
MILWAUKEE WI 53202

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MAR 25 2008

OFFICE OF PETITIONS

In re Application of :
Curtis P. HAMANN :
Application No. 10/373,970 : DECISION ON PETITION
Filed: February 25, 2003 :
Attorney Docket No. 7285B :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 30, 2007 and resubmitted on December 12, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of March 28, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is June 29, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $770.00; and (3) a proper statement of unintentional delay.

A review of the Office records indicates that the petition fee of $770.00 and the Request for Continued Examination (RCE) fee of $405.00 was submitted with the petition filed on October 30, 2007. The records also, indicates that two extension of times were filed with both petitions

dated October 30, 2007 and December 12, 2007. 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 fees were previously submitted, the $1,700.00 fees filed with the resubmittd petition on December 12, 2007 along with the extention of time fee of $525.00 filed October 30, 2007, are unnecessary and will be credited to the petitioner's deposit account.

This application is being referred to Technology Center AU 1655 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.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : March 5, 2008

TO SPE OF : ART UNIT 1742

SUBJECT : Request for Certificate of Correction for Appl. No. 10/373973 patent no.6872326

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

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

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

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

SPE 1793 Art Unit

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REINHART BOERNER VAN DEUREN S.C.
ATTN: LINDA KASULKE, DOCKET COORDINATOR
1000 NORTH WATER STREET
SUITE 2100
MILWAUKEE, WI 53202

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OFFICE OF PETITIONS

In re Application of	:	
Curtis P. Hamann	:	
Application No. 10/373,985	:	ON PETITION
Filed: February 25, 2003	:	
Attorney Docket No. 7285A	:	

This is a decision on the petition under 37 CFR 1.137(b), filed on October 31, 2007 and supplemented on December 12, 2007, to revive the above-identified application.

The above application became abandoned for failure to reply to the final Office action mailed March 28, 2007. A Notice of Abandonment was mailed on October 16, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) under 37 CFR 1.114 with the $405 fee and an amendment; (2) the petition fee of $770; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application is being revived for consideration of the RCE.

Finance records show that on December 12, 2007, petitioner submitted through the electronic filing system a duplicate petition fee of $770, a RCE fee of $405, and $525 for a three months extension of time[1]. Also, on December 12, 2007 petitioner's deposit account was charged a $65 surcharge and a $130 processing fee on October 31, 2007. Since these fees are considered as duplicates and/or unnecessary, the above fees totaling $2,420 will be refunded to petitioner's deposit account.

The application file is being referred to Technology Center Art Unit 1655, for further processing.

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

Andrea Smith
Petitions Examiner
Office of Petitions

[1] 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 $525 extension of time, submitted on October 31, 2007 and December 27, 2007, were subsequent to the maximum extendable period for reply, these fees are considered unnecessary and will be refunded.

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JENKENS & GILCHRIST, P.C.
225 WEST WASHINGTON
SUITE 2600
CHICAGO IL 60606

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OFFICE OF PETITIONS

In re Application of :
Blythe, et al. : DECISION
Application No.: 10/374,018 :
Filed: February 25, 2003 :
Docket No.: 47097-01111USPT :

This decision is in response to the "PETITION FOR FILING A 37 C.F.R. § 1.131 DECLARATION WITH AN INVENTOR WHO IS UNAVAILABLE (37 C.F.R. § 1.47(a))," filed February 3, 2006. This matter is being treated under 37 CFR 1.183 to waive the requirements of 37 CFR 1.131.

The petition under 37 CFR 1.183 to waive the requirements of 37 CFR 1.131 is hereby **GRANTED**.

In response to the final Office action mailed September 1, 2005, petitioners have submitted, *inter alia*, the instant request for acceptance of a declaration under 37 CFR 1.131 signed by less than all of the inventors named in the instant application.

37 CFR 1.131(a) states, in pertinent part:

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

In addition, the Manual of Patent Examining Procedure states that "an application or declaration by less than all named inventors of an application is accepted where it is shown that less than all named inventors of an application invented the subject matter of the claim or claims under rejection." *See* MPEP 715.04.

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

Thus, a petition under 37 CFR 1.183 to waive the requirements that each name inventor execute the declaration under 37 CFR 1.131 is required.

A grantable petition under 37 CFR 1.183 to waive the requirement of 37 CFR 1.131 requires petitions petitioner to establish that this is an extraordinary situation where justice requires waiver of the rules.

Petitioners herein have set forth the steps taken to obtain the signature of inventor Daniel Ferrari on the § 1.131 declaration. Applicants have shown that a *bona fide* effort was made to present the § 1.131 declaration and supporting documentation to inventor Daniel Ferrari for signature. Under the circumstances, it is concluded that petitioner has demonstrated that this is an extraordinary situation requiring waiver of the rules.

In view of the circumstances outlined in the instant petition, the 37 CFR 1.131 declaration may be entered, despite the fact that its requirement that all of the inventors sign the declaration has not been satisfied.

The required petition fee required under 37 CFR 1.183 is currently $400. As petitioners have submitted to date $200.00 in connection with the Rule 47 petition fee, the remaining balance of $200.00 has been charged to petitioners' deposit account as authorized.

The application file is being forwarded to Technology Center 3600 for consideration on the merits of the reply and the 37 CFR 1.131 declaration, filed February 3, 2006.

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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FEB 27 2006

OFFICE OF PETITIONS

CALFEE HALTER & GRISWOLD
800 SUPERIOR AVENUE
SUITE 1400
CLEVELAND OH 44114

In re Application of :
Peter C. Williams et al :
Application No. 10/374,026 : ON PETITION
Filed: February 25, 2003 :
Attorney Docket No. 22188/06559 :

This is a decision on the petition, filed February 23, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 9, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 3679 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

UNITED STATES DEPARTMENT OF COMMERCE
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Patent Group
Microsoft Corporation
One Microsoft Way
Redmond, WA 98052

Mail Date: 04/21/2010

Applicant	: Iulian D. Calinov	: DECISION ON REQUEST FOR
Patent Number	: 7606915	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/374,036	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/25/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1108** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 6

BURNS, DOANE, SWECKER & MATHIS, L.L.P.
P.O. Box 1404
Alexandria VA 22313-1404

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OCT 06 2003

OFFICE OF PETITIONS

In re Application of
Heeb & Keller
Application No. 10/374,060
Filed: February 27, 2003
Attorney Docket No. 004640-039
For: PROCESS AND INSTALLATION FOR WARM DEHULLING SOYA

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

This is in response to the petition under 37 CFR 1.47(b), filed September 4, 2003.

The petition is dismissed.

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

The above-identified application was filed on February 27, 2003 without an executed oath or declaration. Accordingly, on April 4, 2003, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration and a surcharge for its late filing.

In response, on September 4, 2003, a petition for a three month extension of time, a declaration executed by Urs Buhler, the Chairman of the Board of Buhler AG, which is the former employer of the two non-signing inventors, Christian Heeb and Urs V. Keller, the surcharge, the petition fee, and the instant petition were filed. A declaration of facts of Attorney Joachim Frommhold accompanies the petition. Mr. Frommhold sets forth the last known address of each inventor and explains that Ms. Ellen Bies, an employee of Buhler Inc., forwarded declaration and assignment documents along with a self-addressed envelope to the inventors care of Mr. Keller's last known address at his new employer. No reply was received. Petitioner contends that the inventors have constructively refused to execute the declaration.

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

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

Applicant lacks items (1) and (5) set forth above.

As to item (1), petitioner has failed to establish that the inventors have refused to sign the

declaration. Mr. Frommhold's declaration states that Ms. Bies sent only declaration and assignment documents to the inventors at Mr. Keller's last known business address.

The Office requires that the non-signing inventors be provided with a complete copy of the application as filed. This includes the specification with claims, drawings, if any, and a declaration. See MPEP 409.03(d). The inventors cannot make the necessary statements found in the declaration-- i.e. "I have reviewed and understand..." -- without having examined the patent application.

Petitioner must send a copy of the application as filed to each inventor at his last known address and request that he sign the declaration. It is unclear as to why Ms. Bies sent Mr. Heeb's papers to Mr. Keller's last known address.

The inventors must have the complete application in their possession in order to make an informed decision as to whether they join in its filing. When petitioner can show that the inventors were each mailed or received the complete application and that each either refused to sign the declaration or would not respond to the request that he sign the declaration, then petitioner will have satisfied this requirement.

The proof of the pertinent events surrounding any refusal should be made by a statement of someone with **first hand knowledge** of the events.

As to item (5), Rule 47 has applicant failed to show or provide acceptable evidence that Buhler AG, has sufficient proprietary interest in the subject matter to justify the filing of the application (see MPEP 409.03(f)). Exhibit C to Mr. Frommhold's declaration is allegedly an employment agreement executed by Mr. Keller and a representative of Buhler AG. The document is typed in German. The Office requires a verified English translation of the document.

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

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

By hand: Crystal Plaza Four, Suite 3C23
2201 South Clark Place
Arlington, VA 22202

By Fax: (703) 308-6916
ATTN: Office of Petitions

Telephone inquiries may 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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Paper No. 8

BURNS, DOANE, SWECKER & MATHIS, L.L.P.
P.O. Box 1404
Alexandria VA 22313-1404

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JAN 0 9 2004

OFFICE OF PETITIONS

In re Application of
Heeb & Keller
Application No. 10/374,060
Filed: February 27, 2003
Attorney Docket No. 004640-039
For: PROCESS AND INSTALLATION FOR WARM DEHULLING SOYA

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

This is in response to the reconsideration petition under 37 CFR 1.47(b), filed December 8, 2003.

The petition is granted.

Petitioner has shown that the non-signing inventors, Christian Heeb and Urs V. Keller, have constructively refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the declaration of Attorney Patrick C. Keane establishes that each inventor was mailed and received the application papers, including the specification, claims and drawings, but each failed to respond to the request that he sign the declaration within a set period of time. In addition, petitioner has shown that Buhler AG has a proprietary interest in the above-identified application with copies of two employment agreements signed by Heeb and Keller showing that the inventors had an obligation to assign any patent rights to Buhler AG. Lastly, petitioner has submitted a declaration in compliance with 37 CFR 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 CFR 1.47(b). This application is hereby accorded Rule 1.47(b) status.

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

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

Telephone inquiries may be directed to 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
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POSZ & BETHARDS, PLC
11250 ROGER BACON DRIVE
SUITE 10
RESTON, VA 20190

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FEB 1 8 2005

OFFICE OF PETITIONS

In re Patent No. 6,833,599 :
Issue Date: December 21, 2004 :
Application No. 10/374,085 : ON PETITION
Filed: February 27, 2003 :
Attorney Docket No. 01-386 :

This is a decision on the petition filed December 2, 2004, which is being treated as a petition under 37 CFR 3.81[1] to correct the assignee's city on the front page of the above-identified patent by way of a Certificate of Correction.

A review of Office records show that petitioner submitted a check in the amount of $130 for the petition fee. Petitioner should note that effective November 22, 2004, that fee was increased to $400. Also, $100 is required for the requested Certificate of Correction. Therefore, as authorized, the difference of $270 for the petition fee and $100 for the Certificate of Correction fee have been charged to petitioner's deposit account.

The petition is **granted**.

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226. Questions concerning the Certificate of Correction may be directed to the Certificates of Correction Branch at (703) 305-8309.

Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] *See Official Gazette of June 22, 2004*

UNITED STATES PATENT AND TRADEMARK OFFICE

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POSZ LAW GROUP PLC
12040 SOUTH LAKES DRIVE, SUITE 101
RESTON, VA 20191

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AUG 24 2005

OFFICE OF PETITIONS

In re Application of :
Kazuaki Hamamoto et al :
Application No. 10/374,102 : DECISION GRANTING PETITION
Filed: February 27, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 01-390 :

This is a decision on the petition, filed August 23, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 15, 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 2856 for processing of the request for continued examination under 37 CFR 1.114 received August 24, 2005 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), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

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Paper No. 3

Charles F. Rye
Attorney at Law
707 Adams Avenue
Memphis, TN 38105

MAILED

MAY 0 6 2004

Technology Center 2100

In re Application of:
Gino James ROUSS
Application No. 10/374,128
Filed: February 25, 2003
For: METHOD OF FLOW CONTROL

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed August 25, 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 is **GRANTED**.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
703-305-9750

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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WALTER J. TENCZA JR
SUITE 3
10 STATION PLACE
METUCHEN, NJ 08840

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SEP 2 3 2005

OFFICE OF PETITIONS

In re Application of :
Arnulfo Hernandez :
Application No. 10/374,174 : ON PETITION
Filed: February 25, 2003 :
Attorney Docket No. 21-1095 :

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed January 16, 2004, which set a shortened statutory period for reply of three (3) months. A reply under 37 CFR 1.113 is limited to an amendment that *prima facie* places the application in condition for allowance or a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)). Since the amendment submitted on April 16, 2004 did not *prima facie* place the application in condition for allowance as noted in the Advisory Action mailed May 12, 2004. Therefore, as no Notice of Appeal (and appeal fee), Request for Continued Examination (RCE) or a continuing application was timely filed, and no extensions of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on April 17, 2004.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a Request for Continued Examination (RCE); (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office action of January 16, 2004 is accepted as having been unintentionally delay.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 3712.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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FEB 23 2005

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FEB 23 2005

OFFICE OF THE DIRECTOR
TC 3600

LEONARD & PROEHL, PROF. L.L.C.
3500 South First Avenue Circle
Suite 250
Sioux Falls, SD 57105

In re Application of
Verlyn R. Fast
Application No. 10/374,176
Filed: February 25, 2003
For: MOTION ABSORBING HITCH

DECISION ON PETITION
TO WITHDRAW THE
HOLDING OF ABANDONMENT

This is in reply to the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed in the United States Patent and Trademark Office, on July 26, 2004.

The petition is **GRANTED** in view of the following evidence of timely filing :

☐ Postcard receipt being dated_____.

☒ USPTO return facsimile receipt dated April 5, 2004 which identifies the application by serial number and the type of Response that was filed on that date.

☐ Certificate of Mailing/Transmission signed on _____ and supported by a statement under 37 C.F.R. 1.8(b)(3).

☐ Hand Delivery Receipt of the specific documents submitted dated _____.

☐ Certificate of Transmission of CPA under 37 C.F.R. 1.6 filed on _____.

☐ Express Mail Receipt under 37 C.F.R. 1.10 dated _____.

This application is being forwarded to the Supervisory Legal Instruments Examiner for entry of the response filed with the petition, then to the examiner for prompt action on the response.

SNM/jwk: 2/15/05

STEVEN N. MEYERS
SPECIAL PROGRAM EXAMINER
TECHNOLOGY CENTER 3600

UNITED STATES PATENT AND TRADEMARK OFFICE

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K&L GATES LLP
210 SIXTH AVENUE
PITTSBURGH PA 15222-2613

MAILED

APR 2 0 2010

OFFICE OF PETITIONS

In re Patent No. 7,026,184 :
Issue Date: April 11, 2006 :
Application No. 10/374,197 :
Filed: February 26, 2003 :
Attorney Docket No. 020598 :

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 submitted on December 28, 2009.

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

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

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/27/07

TO SPE OF : ART UNIT 2818

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/374246** Patent No.: **6808982**

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

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

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

Angela Green
Certificates of Correction Branch
703.308.9380 ext. 123

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

_____

_____

Steven Loke — SPE

2818 — Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 3

NOV 20 2003

SHEMWELL GREGORY & COURTNEY LLP
4880 Stevens Creek Blvd., Suite 201
San Jose, CA 95129

In re Application of:
KIZER *et al.*
Serial No.: 10/374,251
Filed: February 25, 2003
Attorney Docket No.: **RMBS.P111**

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed May 27, 2003.

The request is **DISMISSED** as moot.

A review of the application file record reveals a proper revocation and power of attorney, to the attorneys of Vierra Magen Marcus Harmon & DeNiro LLP, was filed on September 16, 2003. As such, the power of attorney for the attorneys and agents requesting withdrawal has already been revoked. Accordingly, the present request is moot, and must be dismissed.

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

Inquiries related to this decision should be directed to Clayton E. LaBalle at (703) 308-0519.

Clayton E. LaBalle, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

Enclosure: Copy of Request for Withdrawal as Attorney or Agent for the application file maintained by the attorneys of record.

cc: Kirk H DeNiro Esq
Vierra Magen Marcus Harmon & DeNiro LLP
685 Market Street, Suite 540
San Francisco CA 94105

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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SCHLUMBERGER TECHNOLOGY CORPORATION
SCHLUMBERGER RESERVOIR COMPLETIONS
14910 AIRLINE ROAD
ROSHARON, TX 77583

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DEC 15 2005

OFFICE OF PETITIONS

In re Application of :
Claude J. Vercaemer :
Application No. 10/374,261 :DECISION GRANTING PETITIONS
Filed: February 26, 2003 :UNDER 37 CFR 1.137(b) AND
Attorney Docket No. 22,1486 :37 CFR 1.314

This is a decision on the petition under 37 CFR 1.137(b), filed October 24, 2005, to revive the above-identified application. This is also a decision on the petition under 37 CFR 1.314 to defer issuance of this application upon revival.

The petitions are **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before September 28, 2005, as required by the Notice of Allowance and Fee(s) Due, mailed June 28, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the $1,400 issue fee and $300 publication fee ; (2) the petition fee of $1,500; and (3) the required statement of unintentional delay have been received. Accordingly, the issue and publication fees are accepted as having been unintentionally delayed.

Petitioner requests deferral of issuance in order to file a continuing application. Accordingly, issuance of this application is deferred for a period of one month only. If an additional deferral period is required, a petition under 37 CFR 1.314 setting forth a good and sufficient reason for an additional deferral period and fee of $130 must be submitted. Meanwhile, this matter will be retained in the Office of Petitions for a period of one month.

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

Frances Hicks
Petitions Examiner
Office of Petitions
(571) 272-3218

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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TAROLLI, SUNDHEIM, COVELL & TUMMINO L.L.P.
1300 EAST NINTH STREET, SUITE 1700
CLEVEVLAND OH 44114

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SEP 30 2009

OFFICE OF PETITIONS

In re Application of :
Brian M. Sullivan et al. :
Application No. 10/374,270 : DECISION ON PETITION
Filed: February 25, 2003 :
Attorney Docket No. NG(MS) 018333 USPRI :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 6, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice of Non-Compliant Appeal Brief, mailed November 17, 2008. The Notice set a period for reply of one (1) month or thirty (30) days whichever is longer. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on December 18, 2008.

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

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571)272-4584.

This application is being referred to Technology Center AU 1641 for appropriate action by the Examiner in the normal course of business on the reply received.

Ramesh Krishnamurthy
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

ANNE GRETCHEN AUDI
125 IH 10 NORTH #423
BEAUMONT TX 77707

COPY MAILED

MAR 24 2009

OFFICE OF PETITIONS

In re Application of :
Anne Gretchen Audi :
Application Number: 10/374282 : ON PETITION
Filing Date: 02/25/2003 :
Attorney Docket Number: AUDI001 :

This is a decision in reference to the paper, filed on February 20, 2009, entitled "NOTICE TO FILE FOR A WITHDRAWAL OR REMOVE THE HOLDING OF ABANDONMENT," which is treated as a petition to withdraw the holding of abandonment.

The petition is **DISMISSED**.

The application became abandoned on February 15, 2005, for failure to properly and timely reply to the Office communication mailed on January 14, 2005, which set a one (1) month shortened period for reply. On March 4, 2005, a proposed reply was filed, but the proposed reply was not accompanied by the required petition for extension of time under 37 CFR 1.136(a) and extension of time fee. Notice of Abandonment was mailed on February 8, 2007.

Petitioner states that "I never received notice of any election/restriction sent to my address 125 I H 10 North #423 Beaumont, Texas 77707... It is my understanding after speaking with a representative from your office that a mistake was made and this notice was sent to Jo Katherine De Ambrosia who no longer represents me as of October of 2003."

Petitioner's argument has been considered, but is not persuasive.

At the outset, it is noted that the present petition was filed more than four (4) years after the application became abandoned

and more than two (2) years after the mailing of the Notice of Abandonment. 37 CFR 1.181(f) provides that, *inter alia*, except as otherwise provided, any petition not filed within 2 months from the action complained of may be dismissed as untimely. Therefore, any petition (under 37 CFR 1.181) to withdraw the holding of abandonment not filed within 2 months of the mail date of a notice of abandonment (the action complained of) may be dismissed as untimely. 37 CFR 1.181(f).[1]

A review of the record reveals that the Office communication mailed on January 14, 2005, was mailed to petitioner *pro se*. Further, petitioner attempted to respond to the Office communication by filing the untimely response received on March 4, 2005. Accordingly, petitioner must explain why this petition should not be dismissed out of hand as untimely.

Further, 37 CFR 1.2 states that all business with the Patent and Trademark Office should be transacted in writing. 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.

Moreover, the showing of record is that the Office communication mailed on January 14, 2005, was mailed to applicant *pro se* at 5015 Pine St, #515, Baumont TX 77703. Applicant responded by filing the untimely communication received on March 4, 2005. As such, the showing of record is that applicant *pro se* did in fact receive the Office communication, and that the application became abandoned because of applicant's failure to timely file a reply.

Lastly, it is noted that the reply filed on March 4, 2005, is dated "February 2, 2005," by the applicant. Petitioner, however, did not use the certificate of mailing or transmission procedures outlined at 37 CFR 1.8 or Express Mail "Post Office to Addressee" procedures outlined at 37 CFR 1.10. Had petitioners properly followed the aforementioned procedure, petitioner could have avoided the predicament which has now arisen. See Krahn v. Comm'r, 15 USPQ2d 1823, 1825 (D.C. E.D. Va. 1990). At best, the showing of record reveals petitioners' intent to timely reply to the Office communication mailed on January 14, 2005.

The showing of record is that the application became abandoned as a matter of law on February 15, 2005, for failure to timely file a reply to the Office communication mailed on January 14, 2005.

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[1] MPEP 711.03(c).

As the reply filed on March 4, 2005, did not include the required one (1) month extension of time, the application was properly held abandoned for failure to file a timely reply.[2]

Petitioner may wish to consider filing a petition under 37 CFR 1.137(b), which now provides that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 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 8 June, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application, abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

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

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

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

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

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[2] See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985); see also In re Colombo, Inc., 33 USPQ2d 1530, 1532 (Comm'r Pat. 1994)(while the Office attempts to notify applicants of deficiencies in their responses in a manner permitting a timely correction, the Office has no obligation to notify parties of deficiencies in their responses in a manner permitting a timely correction).

intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

A copy of the form for filing a petition under 37 CFR 1.137(b) to revive an application unintentionally abandoned is enclosed herewith for petitioners' convenience. A copy of the fee schedule is also enclosed.

Any request for reconsideration must be filed within **TWO (2) MONTHS** of the date of this decision. This time period is not extendable.[3]

The correspondence address has been changed as requested in the letters filed on December 10, 2007. All future correspondence will be mailed to the new address of record.

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

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

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

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

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Cf: PTO/SB/64

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[3] See 37 CFR 1.181(f).

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

INTELLECTUAL PROPERTY GROUP
BOSE MCKINNEY & EVANS LLP
2700 FIRST INDIANA PLAZA
135 NORTH PENNSYLVANIA STREET
INDIANAPOLIS, IN 46204

COPY MAILED

JUN 15 2004

OFFICE OF PETITIONS

In re Application of :
McPherson, Jr. :
Application No. 10/374,298 : ON PETITION
Filed: February 25, 2003 :
Attorney Docket No. 12106-0042 :

This decision concerns the June 2, 2004 petition under 37 CFR 1.137(b) to revive the above-referenced application.

The petition is **GRANTED.**

The application became abandoned on June 16, 2003 for failure to timely submit replacement drawings as required by the April 15, 2003 Notice to File Corrected Application Papers.

The instant petition encloses the $1,330 petition fee, a set of replacement drawings which have been approved by the draftsperson, and a statement that the entire delay in filing the requested drawings was unintentional. The petition is thus granted.

The application is now complete.

The file is being forwarded to Technology Center 2800 for examination in due course.

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

RC Tang
Petitions Attorney
Office of Petitions

UNITED STATES 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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Mr. Alan D. Raisanen
5103 Pilgrimport Road
Sodus, NY 14551

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MAY 2 2 2003

OFFICE OF PETITIONS

In re Application of
Alan D. Raisanen; and Shelby F. Nelson
Application No. 10/374,305
Filed: February 25, 2003
For: ION IMPLANTATION WITH MULTIPLE CONCENTRATION LEVELS

Dear Mr. Alan Raisanen:

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 Marianne Morgan at (703) 306-3475. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington, DC area).

Frances Hicks

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

cc: Patent Documentation Center
Xerox Corporation
Xerox Square 20th Floor
100 Clinton Avenue South
Rochester, NY 14644

Paul J.Maginot
Maginot, Moore and Bowman
111 Monument Circle, Suite 3000
Indianapolis, IN 46204-5115

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 4

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

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MAY 2 2 2003

OFFICE OF PETITIONS

In re Application of :
Alan D. Raisanen, et al. :
Application No. 10/374,305 : ON PETITION
Filed: February 25, 2003 :
Attorney Docket No. D/A1081 (1776-0008) :

This is in response to the petition under 37 CFR 1.47(a), filed February 25, 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 37 CFR 1.47(a), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

A cursory review of the file shows that an application transmittal form, filed with the initial application papers, indicates the correspondence address to be "Patent Documentation Center, Xerox Corporation, Xerox Square 20th Floor, 100 Clinton Avenue South, Rochester, NY 14644", which is the address of record currently listed in U. S. Patent and Trademark Office (USPTO) records. However, the address given on the Declaration and Power of Attorney lists the correspondence address as "Paul J. Maginot, Maginot, Moore and Bowman, 111 Monument Circle, Suite 3000, Indianapolis, IN 46204-5115." It is uncertain which address is the correct correspondence address. In view thereof, a copy of this decision is being mailed to the address noted on the Declaration and the petition. Petitioner should inform the USPTO which address should be listed as the address of record. Otherwise, all future correspondence regarding this application will be mailed solely to the address of record, the address noted in the heading of this decision.

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

Telephone inquiries regarding this decision should be directed to Marianne Morgan at (703) 306-3475.

Frances Hicks

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

cc: Paul J. Maginot
Maginot, Moore and Bowman
111 Monument Circle
Suite 3000
Indianapolis, IN 46204-5115

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
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FROM DIRECTORS OFFICE

DEC 0 7 2004

TECHNOLOGY CENTER 3600

Townsend and Townsend and Crew LLP
8th Floor
Two Embarcadero Center
San Francisco, CA 94111

In re application of
Douglas V. McKinnon
Application No. 10/374,316 :
Filed: February 25, 2003 :
For: PREVENTING INTERFERENCE DUE TO MISALIGNED GROUND TERMINALS :

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on April 05, 2004, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

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

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. Besides giving due notice to his or her client and delivering to the client all papers and property to which the client is entitled as specified under 37 CFR 10.40, approval of such a request requires that the following conditions be met:

A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;

B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and

C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

The request to withdraw as attorney in the above-identified application is not approved as moot because the power of attorney has already been withdrawn as per the Notice to that effect of April 21, 2004.

Kenneth J. Dorner
Special Programs Examiner
Patent Technology Center 3600
(703) 308-0866
Facsimile No.: (703) 605-0586

KJD/slb: 11/29/04

cc: McDermott Will & Emery LLP
18191 Von Karman Avenue
Irvine, CA 92612-7107

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 7

DWIGHT A. MARSHALL, ESQ.
1159 BLIND BROOK DRIVE
WORTHINGTON, OH 43235-1206

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OFFICE OF PETITIONS

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JUN 1 1 2003

OFFICE OF PETITIONS

In re Application of
Kozoriz
Application No. 09/654,964
Filed: September 5, 2000
For: SUPER CONDUCTIVE BEARING

: DECISION ACCORDING STATUS UNDER 37 CFR 1.47(b)

This is a decision on the renewed petition under 37 CFR 1.47(b), filed on February 22, 2002 and supplemented on July 18, 2002, requesting that Global Trading & Technology, Inc. ("Global") be allowed to make the application on behalf of and as agent for the sole inventor who allegedly refuses to execute the application.

The renewed petition is **GRANTED.**

The sole inventor for the claimed invention in this application is Vasyl' V. Kozoriz ("Kozoriz"). Global alleges having entered into an "Intellectual Property Rights and Invention Development Contract" ("Contract") with Kozoriz, under which "the invention and all the proprietary rights thereto have been duly assigned in the entirety to Global."[1] A petition under 37 CFR 1.47(b) was filed with the application on September 5, 2000. That petition was dismissed on January 4, 2002 because Global failed to demonstrate possession of a proprietary interest in the invention at issue for justifying filing this application on behalf of and as agent for Kozoriz, i.e., it did not make out a *prima facie* case that Kozoriz had assigned or agreed in writing to assign his rights in the claimed invention in this application to Global or that Global had otherwise obtained sufficient proprietary interest in this invention.[2]

The instant renewed petition includes a statement by Lois Reiner, Secretary and Treasurer of Global ("Reiner") ("Reiner Statement"); a Declaration and Power of Attorney for this application, signed by Reiner; an affidavit by Reiner ("Reiner Affidavit"); a memorandum by counsel for Global ("Marshall Memorandum"); and an affidavit by a Daniel E. Strohecker ("Strohecker Affidavit") who allegedly conducted prior art search with respect to the claimed invention in this application and prepared the drawings and specification for the application.[3]

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[1] 9/5/00 Petition, page 1, paragraph 2, Statement, 2nd to the last sentence. This "Contract" was recorded in the PTO on 9/5/00.

[2] See Paper No. 4.

[3] Strohecker Affidavit, page 1, 5th & 7th paragraphs. Even though Kozoriz has always been presented as the sole inventor of the invention at issue, and Strohecker's name has never previously been associated with this application, this affidavit states (in the 3rd & 4th paragraphs of page 1) that Strohecker was hired by Global to work with Kozoriz on the "development" of this invention, apparently implying Strohecker's joint effort in reducing this invention to practice.

In addition, in a telephone interview on July 9, 2002, the Office requested from counsel for Global a more legible copy of the **entire** "Contract," including the page where the alleged "contracting parties" signed, if any, due to the concern that the copy of "Contract" recorded in the PTO may not include all pertinent pages, or that the pages contained therein may not be in the right order for showing that this "Contract" was properly executed. In response, counsel supplemented the petition on July 18, 2002 with an affidavit by counsel ("Marshall Affidavit"), a memorandum by Walter G. Reiner, President of Global ("Reiner Memorandum"), and a copy of a "duly executed contract."[4]

The Reiner Statement, the Reiner Affidavit, the Marshall Memorandum, the Strohecker Affidavit, the Marshall Affidavit, and the Reiner Memorandum collectively assert that Kozoriz has, through the "contract," assigned all of his rights in the invention at issue to Global.[5] The Reiner Memorandum and the Marshall Affidavit further contend that the filing of this application under 37 CFR 1.47(b) is necessary to preserve the rights of the parties, or to prevent irreparable damages.[6]

In view of the above, the Office concludes that Global has:

-demonstrated proprietary interest in this application to file it in the USPTO on behalf of and as agent for Kozoriz;

-properly made the oath;[7]

-stated the relationship between Global and Kozoriz, as required by 37 CFR 1.64;[8]

---

[4] Marshall Affidavit, page 1, 2nd-7th paragraph.

[5] As described in the Marshall Affidavit, this "duly executed contract" is a 7-page document consisting of:

-serially-numbered first 4 pages with the first page captioned "Intellectual Property Rights and Invention Development Contract";

-a 5th page, entitled "Vasyl' Kozoriz (Vassili Kozorez) and Global Trading & Technology Inc., Contract for Intellectual Property Rights and Invention Development" and not numbered, bears the signatures of Walter G. Reiner and Kozoriz that are not attested to;

-a 6th page entitled "Certificate of Acknowledgment of Execution of an Instrument" in conjunction with a 7th page entitled "Special Power of Attorney by Owner and Seller of Intellectual Property," apparently signed by Kozoriz before the Vice Consul and 2 witnesses at the United States Embassy in Ukraine, and enables Marshall to prosecute the Super Conductive Bearing patent application (Marshall Affidavit, page 2, lines 2-4).

[6] Reiner Memorandum, page 2, 2nd to last paragraph; Marshall Affidavit, page 2, last sentence.

[7] The 9/5/00 "Declaration and Power of Attorney" was executed by Walter Reiner, an officer of Global. See MPEP sections 409.03(b)(A), 409.03(f) (Aug. 2001).

[8] MPEP section 409.03(b)(B) (Aug. 2001). Based on the petition, the renewed petition, and the accompanying papers (e.g., instant renewed petition, page 2, paragraph 4.04 & 4.05), Global has, through the "contract," provided Kozoriz an expense-paid trip to the U.S. to reduce the invention Super Conductive Bearing to practice.

-submitted proof that:
-a *bona fide* attempt was made by Global to present an entire copy of the application, including specification and claims, to Kozoriz for signature;[9] and
-Kozoriz refused to sign the application;[10]
-stated Kozoriz's last known address;[11] and
-shown that the filing of this application under 37 CFR 1.47(b) is necessary to preserve the rights of the parties, or to prevent irreparable damages.[12]

The instant renewed petition is thus granted, and the Declaration and Power of Attorney signed by Walter Reiner and filed with the application on September 5, 2000 is accepted.[13]

No fee is owed.

As provided in 37 CFR 1.47(c), the Office will forward notice of the filing of this application to Kozoriz at his last known address stated in the petition: 5 Poljarna Street, Apartment 99, Kyvi (Kiev) 201, Ukraine. Notice of the filing of this application will also be published in the *Official Gazette*.

The application file is being forwarded to Technology Center 2800 for examination in due course.

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

Beverly M. Flanagan
Supervisory Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[9] E.g., instant renewed petition, paragraph 2.04 under "Statement." See MPEP section 409.03(d) (Aug. 2001).

[10] E.g., instant renewed petition, page 3, paragraph 4.12 under "Affidavits." See MPEP section 409.03(b)(C) (Aug. 2001).

[11] MPEP sections 409.03(b)(D), 409.03(e) (Aug. 2001).

[12] MPEP sections 409.03(b)(F), 409.03(g) (Aug. 2001) (Such a showing can be a statement that a filing date is necessary to preserve the rights of the parties or to prevent irreparable damages). A statement to this effect is contained in the petition; see *supra* note 6.

[13] The instant renewed petition also encloses a Declaration and Power of Attorney signed by Lois Reiner.

IN THE UNITED STATES
PATENT AND TRADEMARK OFFICE

Declaration and Power of Attorney

As the below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor of the subject matter which is claimed and for which a patent is sought on the invention entitled Super Conductive Bearing the specification of which was included in patent application 09/654,964 filed on September 5, 2000.

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by an amendment, if any, specifically referred to in this oath or declaration.

I acknowledge the duty to disclose all information known to me which is material to patentability as defined in Title 37, Code of Federal Regulations, 1.56.

I hereby claim foreign priority benefits under Title 35, United States Code, 119 of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed:

None

I hereby claim the benefit under Title 35, United States Code, 120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, 112, I acknowledge the duty to disclose all information known to me to be material to patentability as defined in Title 37, Code of Federal Regulations, 1.56 which became available between the filing date of the prior application and the national or PCT international filing date of this application:

None

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

I hereby appoint the following attorney with full power of substitution and revocation, to prosecute said application, to make alterations and amendments therein, to receive the patent, and to transact all business in the Patent and Trademark Office connected therewith:

Dwight A. Marshall (Reg. No. 25896)

Please address all correspondence to Dwight A. Marshall, 1159 Blind Brook Dr., Worthington, Ohio 43235-1206. Telephone calls should be made to Dwight A. Marshall by dialing Area Code 614-888-6533.

Full name of sole inventor: Vasyl' V. Kozoriz

Inventor's signature_____Date
Residence: 5 Poljarna Street
Kyjv (Kiev), 201Ukraine

Citizenship: Ukrainian

Post Office Address: 5 Poljarna Street
Kyjv (Kiev), 201 Ukraine

SIGNATURE BY PERSON WITH SUFICIENT PROPRIETARY INTEREST ON BEHALF OF NONSIGNING INVENTOR WHO CANNOT BE REACHED (37 CFR 1.47(B))

I, Lois Reiner, hereby declare that I am a citizen of the United States of America residing at 9409 Walnut Hull Dr., Genoa Township, Westerville, Ohio, 43082 and that I am the Secretary and Treasurer of Global Trading & Technology, Inc. (Global), 5030 Westerville Road, Columbus, OH, 43231, which has sufficient proprietary interest in the aforementioned invention in patent application 09/654,964 filed on September 5, 2000 in the U.S. Patent Office and which is entitled Super Conductive Bearing.

By virtue of this proprietary interest, I sign this declaration on behalf of, and as agent for:

Vasyl' V. Kozoriz
5 Poljarna Street, Apartment 99
Kyiv (Kiev) 201, Ukraine

nonsigning inventor who is a citizen of the Ukraine and whose last known address was 3399 Partridge Place, Apartment 203, County of Franklin, Columbus, Ohio 43231 and after being

located with due diligence, refused to sign the papers required for the filing of a patent application for an invention sold to Global.

Upon information and belief, I aver those facts that the inventor is required to state, 37 CFR 1.64(b).

I, further state that in accordance with 37 CFR 1.47(b) that Global has a proprietary interest in this invention in that the inventor, Vasyl' V. Kozoriz, has sold the know-how, technology and patent rights to this invention in writing in accordance with a duly written and executed contract with Global to Global, a copy of which was included in the filed application for recording in the United States Patent and Trademark Office.

Lois Reiner

Lois Reiner, Secretary and Treasurer
Global Trading & Technology, Inc.
5030 Westerville Road
Columbus, OH, 43231

2/22/02
Date

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 4

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JUN 17 2003

OFFICE OF PETITIONS

DWIGHT A. MARSHALL, ESQ.
1159 BLIND BROOK DRIVE
WORTHINGTON, OH 43235-1206

In re Application of
Kozoriz
Application No. 10/374,328
Filed: February 27, 2003
Attorney Docket No. Vasyl' V, Kozoriz Case 4

: DECISION DISMISSING
: PETITION AND CONFIRMING
: STATUS UNDER 37 CFR 1.47(b)

This decision concerns the petition under 37 CFR 1.47(b), filed on June 11, 2003, requesting that Assignee be allowed to make the application on behalf of and as agent for the sole inventor who allegedly refuses to execute the application.

The petition is **DISMISSED as moot.**

The instant application is a divisional of Application No. 09/654,964 (parent application) which was accorded status under 37 CFR 1.47(b) in an August 5, 2002 decision granting the February 22, 2002 §1.47(b) petition.

The Office notes that:

(1) The instant application names the same sole inventor as that in the parent application;[1]

(2) The petition indicates that no new matter is contained in the instant divisional application with respect to the parent application;[2]

(3) Copies of the following are enclosed with the petition:

(A) the August 5, 2002 decision according the parent application §1.47(b) status;[3]

(B) the declaration signed by an officer of Assignee on behalf of, and as agent for, the inventor; and submitted with the parent application on September 5, 2000.[4]

Therefore, a newly executed oath or declaration is not required for the instant divisional application. The petition is thus dismissed as moot.

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1 37 CFR 1.63(d)(1)(ii).

2 37 CFR 1.63(d)(1)(iii).

3 37 CFR 1.63(d)(3)(i).

4 37 CFR 1.63(d)(1)(iv).

No petition fee is owed.

The file is being returned to the Office of Initial Patent Examination to await submission of a reply to the May 13, 2003 "Notice to File Corrected Application Papers." Thereafter, the file will be forwarded to Technology Center 2800 for examination in due course.

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

RC Tang
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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JUN 17 2003

OFFICE OF PETITIONS

Paper No. 4

DWIGHT A. MARSHALL, ESQ.
1159 BLIND BROOK DRIVE
WORTHINGTON, OH 43235-1206

In re Application of
Kozoriz
Application No. 10/374,329
Filed: February 27, 2003
Attorney Docket No. Vasyl' V, Kozoriz Case 3

: DECISION DISMISSING
: PETITION AND CONFIRMING
: STATUS UNDER 37 CFR 1.47(b)

This decision concerns the petition under 37 CFR 1.47(b), filed on June 11, 2003, requesting that Assignee be allowed to make the application on behalf of and as agent for the sole inventor who allegedly refuses to execute the application.

The petition is **DISMISSED as moot.**

The instant application is a divisional of Application No. 09/654,964 (parent application) which was accorded status under 37 CFR 1.47(b) in an August 5, 2002 decision granting the February 22, 2002 §1.47(b) petition.

The Office notes that:

(1) The instant application names the same sole inventor as that in the parent application;[1]

(2) The petition indicates that no new matter is contained in the instant divisional application with respect to the parent application;[2]

(3) Copies of the following are enclosed with the petition:

(A) the August 5, 2002 decision according the parent application §1.47(b) status;[3]

(B) the declaration signed by an officer of Assignee on behalf of, and as agent for, the inventor; and submitted with the parent application on September 5, 2000.[4]

Therefore, a newly executed oath or declaration is not required for the instant divisional application. The petition is thus dismissed as moot.

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[1] 37 CFR 1.63(d)(1)(ii).

[2] 37 CFR 1.63(d)(1)(iii).

[3] 37 CFR 1.63(d)(3)(i).

[4] 37 CFR 1.63(d)(1)(iv).

No petition fee is owed.

The file is being returned to the Office of Initial Patent Examination to await submission of a reply to the May 27, 2003 "Notice to File Corrected Application Papers." Thereafter, the file will be forwarded to Technology Center 2800 for examination in due course.

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

RC Tang
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 7

DWIGHT A. MARSHALL, ESQ.
1159 BLIND BROOK DRIVE
WORTHINGTON, OH 43235-1206

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AUG 0 5 2002

OFFICE OF PETITIONS

In re Application of
Kozoriz
Application No. 09/654,964
Filed: September 5, 2000
For: SUPER CONDUCTIVE BEARING

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

This is a decision on the renewed petition under 37 CFR 1.47(b), filed on February 22, 2002 and supplemented on July 18, 2002, requesting that Global Trading & Technology, Inc. ("Global") be allowed to make the application on behalf of and as agent for the sole inventor who allegedly refuses to execute the application.

The renewed petition is **GRANTED.**

The sole inventor for the claimed invention in this application is Vasyl' V. Kozoriz ("Kozoriz"). Global alleges having entered into an "Intellectual Property Rights and Invention Development Contract" ("Contract") with Kozoriz, under which "the invention and all the proprietary rights thereto have been duly assigned in the entirety to Global."[1] A petition under 37 CFR 1.47(b) was filed with the application on September 5, 2000. That petition was dismissed on January 4, 2002 because Global failed to demonstrate possession of a proprietary interest in the invention at issue for justifying filing this application on behalf of and as agent for Kozoriz, i.e., it did not make out a *prima facie* case that Kozoriz had assigned or agreed in writing to assign his rights in the claimed invention in this application to Global or that Global had otherwise obtained sufficient proprietary interest in this invention.[2]

The instant renewed petition includes a statement by Lois Reiner, Secretary and Treasurer of Global ("Reiner") ("Reiner Statement"); a Declaration and Power of Attorney for this application, signed by Reiner; an affidavit by Reiner ("Reiner Affidavit"); a memorandum by counsel for Global ("Marshall Memorandum"); and an affidavit by a Daniel E. Strohecker ("Strohecker Affidavit") who allegedly conducted prior art search with respect to the claimed invention in this application and prepared the drawings and specification for the application.[3]

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[1] 9/5/00 Petition, page 1, paragraph 2, Statement, 2nd to the last sentence. This "Contract" was recorded in the PTO on 9/5/00.

[2] See Paper No. 4.

[3] Strohecker Affidavit, page 1, 5th & 7th paragraphs. Even though Kozoriz has always been presented as the sole inventor of the invention at issue, and Strohecker's name has never previously been associated with this application, this affidavit states (in the 3rd & 4th paragraphs of page 1) that Strohecker was hired by Global to work with Kozoriz on the "development" of this invention, apparently implying Strohecker's joint effort in reducing this invention to practice.

In addition, in a telephone interview on July 9, 2002, the Office requested from counsel for Global a more legible copy of the **entire** "Contract," including the page where the alleged "contracting parties" signed, if any, due to the concern that the copy of "Contract" recorded in the PTO may not include all pertinent pages, or that the pages contained therein may not be in the right order for showing that this "Contract" was properly executed. In response, counsel supplemented the petition on July 18, 2002 with an affidavit by counsel ("Marshall Affidavit"), a memorandum by Walter G. Reiner, President of Global ("Reiner Memorandum"), and a copy of a "duly executed contract."[4]

The Reiner Statement, the Reiner Affidavit, the Marshall Memorandum, the Strohecker Affidavit, the Marshall Affidavit, and the Reiner Memorandum collectively assert that Kozoriz has, through the "contract," assigned all of his rights in the invention at issue to Global.[5] The Reiner Memorandum and the Marshall Affidavit further contend that the filing of this application under 37 CFR 1.47(b) is necessary to preserve the rights of the parties, or to prevent irreparable damages.[6]

In view of the above, the Office concludes that Global has:

-demonstrated proprietary interest in this application to file it in the USPTO on behalf of and as agent for Kozoriz;

-properly made the oath;[7]

-stated the relationship between Global and Kozoriz, as required by 37 CFR 1.64;[8]

---

[4] Marshall Affidavit, page 1, 2nd-7th paragraph.

[5] As described in the Marshall Affidavit, this "duly executed contract" is a 7-page document consisting of:

-serially-numbered first 4 pages with the first page captioned "Intellectual Property Rights and Invention Development Contract";

-a 5th page, entitled "Vasyl' Kozoriz (Vassili Kozorez) and Global Trading & Technology Inc., Contract for Intellectual Property Rights and Invention Development" and not numbered, bears the signatures of Walter G. Reiner and Kozoriz that are not attested to;

-a 6th page entitled "Certificate of Acknowledgment of Execution of an Instrument" in conjunction with a 7th page entitled "Special Power of Attorney by Owner and Seller of Intellectual Property," apparently signed by Kozoriz before the Vice Consul and 2 witnesses at the United States Embassy in Ukraine, and enables Marshall to prosecute the Super Conductive Bearing patent application (Marshall Affidavit, page 2, lines 2-4).

[6] Reiner Memorandum, page 2, 2nd to last paragraph; Marshall Affidavit, page 2, last sentence.

[7] The 9/5/00 "Declaration and Power of Attorney" was executed by Walter Reiner, an officer of Global. See MPEP sections 409.03(b)(A), 409.03(f) (Aug. 2001).

[8] MPEP section 409.03(b)(B) (Aug. 2001). Based on the petition, the renewed petition, and the accompanying papers (e.g., instant renewed petition, page 2, paragraph 4.04 & 4.05), Global has, through the "contract," provided Kozoriz an expense-paid trip to the U.S. to reduce the invention Super Conductive Bearing to practice.

-submitted proof that:
-a *bona fide* attempt was made by Global to present an entire copy of the application, including specification and claims, to Kozoriz for signature;[9] and
-Kozoriz refused to sign the application;[10]
-stated Kozoriz's last known address;[11] and
-shown that the filing of this application under 37 CFR 1.47(b) is necessary to preserve the rights of the parties, or to prevent irreparable damages.[12]

The instant renewed petition is thus granted, and the Declaration and Power of Attorney signed by Walter Reiner and filed with the application on September 5, 2000 is accepted.[13]

No fee is owed.

As provided in 37 CFR 1.47(c), the Office will forward notice of the filing of this application to Kozoriz at his last known address stated in the petition: 5 Poljarna Street, Apartment 99, Kyvi (Kiev) 201, Ukraine. Notice of the filing of this application will also be published in the *Official Gazette*.

The application file is being forwarded to Technology Center 2800 for examination in due course.

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

Beverly M. Flanagan
Supervisory Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[9] E.g., instant renewed petition, paragraph 2.04 under "Statement." See MPEP section 409.03(d) (Aug. 2001).

[10] E.g., instant renewed petition, page 3, paragraph 4.12 under "Affidavits." See MPEP section 409.03(b)(C) (Aug. 2001).

[11] MPEP sections 409.03(b)(D), 409.03(e) (Aug. 2001).

[12] MPEP sections 409.03(b)(F), 409.03(g) (Aug. 2001) (Such a showing can be a statement that a filing date is necessary to preserve the rights of the parties or to prevent irreparable damages). A statement to this effect is contained in the petition; see *supra* note 6.

[13] The instant renewed petition also encloses a Declaration and Power of Attorney signed by Lois Reiner.

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Paper No. 3

DWIGHT A. MARSHALL, ESQ.
1159 BLIND BROOK DRIVE
WORTHINGTON, OH 43235-1206

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JUN 17 2003

OFFICE OF PETITIONS

In re Application of
Kozoriz
Application No. 10/374,331
Filed: February 27, 2003
Attorney Docket No. Vasyl' V, Kozoriz Case 5

: DECISION DISMISSING
: PETITION AND CONFIRMING
: STATUS UNDER 37 CFR 1.47(b)

This decision concerns the petition under 37 CFR 1.47(b), filed on June 11, 2003, requesting that Assignee be allowed to make the application on behalf of and as agent for the sole inventor who allegedly refuses to execute the application.

The petition is **DISMISSED as moot.**

The instant application is a divisional of Application No. 09/654,964 (parent application) which was accorded status under 37 CFR 1.47(b) in an August 5, 2002 decision granting the February 22, 2002 §1.47(b) petition.

The Office notes that:

(1) The instant application names the same sole inventor as that in the parent application;[1]

(2) The petition indicates that no new matter is contained in the instant divisional application with respect to the parent application;[2]

(3) Copies of the following are enclosed with the petition:

(A) the August 5, 2002 decision according the parent application §1.47(b) status;[3]

(B) the declaration signed by an officer of Assignee on behalf of, and as agent for, the inventor; and submitted with the parent application on September 5, 2000.[4]

Therefore, a newly executed oath or declaration is not required for the instant divisional application. The petition is thus dismissed as moot.

---

1 37 CFR 1.63(d)(1)(ii).

2 37 CFR 1.63(d)(1)(iii).

3 37 CFR 1.63(d)(3)(i).

4 37 CFR 1.63(d)(1)(iv).

No petition fee is owed.

The file is being returned to the Office of Initial Patent Examination for issuance of a filing receipt. Upon completion of pre-examination, the file will be forwarded to Technology Center 2800 for examination in due course.

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

RC Tang
Petitions Attorney
Office of Petitions

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JUL 07 2009

OFFICE OF PETITIONS

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

In re Application of	:	
Furman et al.	:	
Application No. 10/374,363	:	ON APPLICATION FOR
Filed: February 25, 2003	:	PATENT TERM ADJUSTMENT
Atty Docket No. 04674.105054	:	
CON	:	
Title: COMBINATION THERAPY	:	
TO TREAT HEPATITIS B VIRUS	:	

This is in response to the "PETITION FOR CORRECTION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)," filed June 5, 2009. Applicant requests that the determination of patent term adjustment be increased by five hundred forty-four (544) days to seven hundred forty-five (745) days[1]. Applicant requests this correction on the basis that the Office will take in excess of three years to issue this patent and in light of the recent court decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008).

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 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).

[1] This calculation is based on a notice of appeal having been mailed in this application on August 23, 2007. However, in this instance, there was no period of successful appellate review. The appeal was withdrawn with the filing of an RCE. Further, the RCE was not first preceded by the mailing of at least one of an action under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151.

(This is true even in this instance where a request for continued examination (RCE) was filed[2]. The computer will not undertake the § 1.703(b) calculation until the actual date of issuance of the patent has been determined. Accordingly, it is still too soon to make a determination as to the correctness of any period of adjustment that will or will not be entered pursuant to § 1.703(b)).

Applicant is given TWO (2) MONTHS from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within 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.

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.

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

Applicants are reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified of the revised patent term adjustment to be indicated on the patent in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

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[2] It is noted that a request for continued examination (RCE) was filed in this application on March 24, 2008.

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries regarding this decision should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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MAY 17 2010

OFFICE OF PETITIONS

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

In re Patent No. 7,572,800	:	DECISION ON REQUEST
Furman et al.	:	FOR
Issue Date: August 11, 2009	:	RECONSIDERATION OF
Application No. 10/374,363	:	PATENT TERM ADJUSTMENT
Filed: February 25, 2003	:	and
Atty Docket No. 04674.105054 CON	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on September 9, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by nine hundred and fifty-nine (959) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein.** The patent term adjustment is corrected to indicate that the term of the above-identified patent is extended or adjusted by **seven hundred forty-four (744)** days.

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on February 26, 2006 and ends on March 23, 2008, the day before the first RCE was filed, which amounts to 757 (not 758) days. See U.S.C. 154(b)(1)(B)(i).

Moreover, as the time consumed by the notice of appeal is excluded from the period of B-delay, the period of time beginning on the day the Notice of Appeal was filed (August 23, 2007) and ending on the day before the RCE was filed (March 23, 2008) is excluded. (As discussed above, pursuant to 35 U.S.C. 154(b)(1)(B)(i)), the date of filing of the RCE is already

excluded). It follows that this constitutes 214 days of overlap.

As such, the patent term adjustment is increased by (757 - 214) 543 days for B delay to 744, not 959 days. (The period of adjustment of 223 days entered for B delay at issuance is being removed and the period of adjustment of 543 days is entered).

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **seven hundred and forty-three (744) days.**

Telephone inquiries specific to this matter should be directed to Senior Attorney Paul Shanoski 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 : 7,572,800 B2

DATED : **August 11, 2009** **DRAFT**

INVENTOR(S) : Furman 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 424 days

Delete the phrase "by 424 days" and insert – by 744 days--

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TOBY H. KUSMER
McDERMOTT WILL & EMERY
28 STATE STREET
BOSTON, MA 02109

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AUG 0 2 2004

OFFICE OF PETITIONS

In re Application of	:	
Ching-Ming Lai	:	
Application No. 10/374,364	:	DECISION GRANTING PETITION
Filed: February 25, 2003	:	UNDER 37 CFR 1.137(f)
Attorney Docket No. ANAK-241	:	

This is a decision on the petition, filed June 10, 2004, to revive the instant nonprovisional application under the unintentional provisions of 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in a foreign country on October 30, 2003. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

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

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

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

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

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

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

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of October 7, 2004 was previously mailed on June 25, 2004.

Any inquiries concerning this decision may be directed to the undersigned at (703) 305-8680.

This application is being referred to Technology Center Art Unit 2859 for further action as the nature of the case may require.

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

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MAY 21 2003

Paper No. 3

In re Application of :
Leslie G. Smith : DECISION ON PETITION
Application No. 10/374,369 :
Filed: February 26, 2003 :
For: Tenon Maker

This is a decision on the petition to make special filed concurrently with the application.

The petition is dismissed.

The petition to make special is filed pursuant to MPEP § 708.02(II), Infringement. A petition to make special on the grounds of infringement requires that applicant allege:

(A) That there is an infringing device or product actually on the market or method in use;
(B) That a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and
(C) That he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art.

In addition, it is required that "[A]pplicant 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."

Petitioner has not submitted copies of any prior art references. Petitioner has also not stated that there are no prior art references available; in fact, petitioner's specification discusses several prior art references but does not indicate which is or are "most closely related to the subject matter encompassed by the claims." Inasmuch as there must be, by definition, one or more prior art references "most closely related to the subject matter encompassed by the claims", the petition can not presently be granted.

Petitioner may file a renewed petition, without fee, supplying a copy of one or more prior art references which petitioner deems to be "most closely related" to the claimed subject matter. The renewed petition must be filed within two months of the date of this Decision. See 37 CFR 1.181(f).

The application is being returned to storage to await first action.

PETITION DISMISSED.

Stephen Marcus, Special Program Examiner
Patent Examining Groups 3710 and 3720

Donald W. Meeker
Patent Agent
924 East Ocean Front #E
Newport Beach, CA 92661

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 8/13/07

DATE : 04/25/06

TO SPE OF : ART UNIT 1755

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/374373 Patent No.: 6846341

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

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

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

Certificates of Correction Branch

703-308-9390 ext. 123

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

J.A. LORENGO
SUPERVISORY PATENT EXAMINER
SPE

1755
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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NOV 30 2004

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

In re Application of
Robert E. Reiter et al.
Serial No.: 10/374,381
Filed: February 25, 2003
Attorney Docket No.: 30435.69

: PETITION TO MAKE SPECIAL

This is in response to the petition filed April 30, 2003, to make the above-identified application special under the provisions of 37 CFR 1.102(d). The delay in acting on this petition is regretted.

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, X. Therefor the petition is **GRANTED**.

The application will be forwarded to the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission to the Office general facsimile number, 703-872-9306.

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

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Commissioner for Patents
United States Patent and Trademark Office
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NOV 30 2004

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

In re Application of	:
Robert E. Reiter et al.	: PETITION TO MAKE SPECIAL
Serial No.: 10/374,381	:
Filed: February 25, 2003	:
Attorney Docket No.: 30435.69	

This is in response to the petition filed April 30, 2003, to make the above-identified application special under the provisions of 37 CFR 1.102(d). The delay in acting on this petition is regretted.

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, X. Therefor the petition is **GRANTED**.

The application will be forwarded to the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission to the Office general facsimile number, 703-872-9306.

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

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Commissioner for Patents
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Alexandria, VA 22313-1450
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BOZICEVIC FIELD & FRANCIS LLP
1900 UNIVERSITY AVE., SUITE 200
EAST PALO ALTO, CA 94303

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NOV 24 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Christopher Aubuchon :
Application No. 10/374,418 :
Filed: February 24, 2003 :
Attorney Docket No. EXAJ-003

This is a decision on the petition, filed November 21, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on March 26, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

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

This matter will be forwarded to Technology Center AU 2873 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

cc:

The Patent Law Office of Frank P. Becking
P.O. Box 800
Palo Alto, CA 94302

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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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DONALD V. TOMKINS
C/O TOMKINS LAW OFFICE
740, 10150 - 100 STREET
EDMONTON AB T5J 0P6 CA CANADA

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JAN 27 2006

OFFICE OF PETITIONS

In re Application of :
Hal REINELT et al. :
Application No. 10/374,422 :
Filed: February 27, 2003 :
Attorney Docket No. 55635-2 :

ON PETITION

This is a decision on the petition under 37 CFR 1.181, filed September 16, 2005, requesting withdrawal of the holding of abandonment.

The petition is **DISMISSED**.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.181 must be filed within TWO (2) MONTHS from the mail date of this decision, 37 CFR 1.181(f). No extension of this 2-month time limit can be granted under 37 CFR 1.136(a) or (b).

Petitioner asserts the holding of abandonment be withdrawn as petitioner never received the non-final Office action mailed October 27, 2004. In support of petitioners' assertion petitioner includes copies of: (1) a Revocation of Power of Attorney or Authorization of Agent filed November 21, 2003; (2) a copy of a Power of Attorney or Authorization of Agent filed November 21, 2003; (3) a copy of a return postcard with a date stamp of November 21, 2003 acknowledging receipt of the aforementioned items by the USPTO; and (4) a copy of the Office action mailed October 27, 2004 to Donald V. Tomkins.

37 CFR 1.33(a)(2) states:

(a) *Correspondence address and daytime telephone number.* When filing an application, a correspondence address must be set forth in either an application data sheet (§ 1.76), or elsewhere, in a clearly identifiable manner, in any paper submitted with an application filing. If no correspondence address is specified, the Office may treat the mailing address of the first named inventor (if provided, see §§ 1.76(b)(1) and 1.63(c)(2)) as the correspondence address. The Office will direct all notices, official letters, and other communications relating to the application to the correspondence address. The Office

will not engage in double correspondence with an applicant and a registered patent attorney or patent agent, or with more than one registered patent attorney or patent agent except as deemed necessary by the Director. If more than one correspondence address is specified in a single document, the Office will establish one as the correspondence address and will use the address associated with a Customer Number, if given, over a typed correspondence address. For the party to whom correspondence is to be addressed, a daytime telephone number should be supplied in a clearly identifiable manner and may be changed by any party who may change the correspondence address. The correspondence address may be changed as follows:
(2) *Where a § 1.63 oath or declaration has been filed by any of the inventors.* If a § 1.63 oath or declaration has been filed, or is filed concurrent with the filing of an application, by any of the inventors, the correspondence address may be changed by the
parties set forth in paragraph (b) of this section, except for paragraph (b)(2).
(b) *Amendments and other papers.* Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:
(1) A registered 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.

37 CFR 1.36(a) states:

(a) A power of attorney, pursuant to § 1.32(b), may be revoked at any stage in the proceedings of a case by an applicant for patent (§ 1.41(b)) or an assignee of the entire interest of the applicant. A power of attorney to the patent practitioners associated
with a Customer Number will be treated as a request to revoke any powers of attorney previously given. Fewer than all of the applicants (or by fewer than the assignee of the entire interest of the applicant) may only revoke the power of attorney upon a showing of sufficient cause, and payment of the petition fee set forth in § 1.17(h). A registered patent attorney or patent agent will be notified of the revocation of the power of attorney. Where power of attorney
is given to the patent practitioners associated with a Customer Number (§ 1.32(c)(2)), the practitioners so appointed will also be notified of the revocation of the power of attorney when the power of attorney to all of the practitioners associated with the Customer Number is revoked. The notice of revocation will be mailed to the correspondence address for the application
(§ 1.33) in effect before the revocation. An assignment will not of itself operate as a revocation of a power previously given, but the assignee of the entire interest of the applicant may revoke previous powers of attorney and give another power of attorney of the assignee's own selection as provided in §1.32(b).

It is further noted that MPEP 402.05 states that a revocation of the power of attorney becomes effective on the date that the revocation is received in the Office.

Since neither the Revocation of Power of Attorney or Authorization of Agent filed November 21, 2003 or the Power of Attorney or Authorization of Agent filed November 21, 2003 were signed

by all of the inventors, the non-final Office action mailed October 27, 2004 was mailed to the correct address.

Any renewed petition may be addressed as follows:

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

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

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

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.

Brian Hearn
Petitions Examiner
Office of Petitions

Cc: Vermette & Co.
Box 40 Granville Square
Suite 230, 200 Granville Street
Vancouver, British Columbia, V6C 1S4 Canada

UNITED STATES PATENT AND TRADEMARK OFFICE

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C/O TOMKINS LAW OFFICE
740, 10150 - 100 STREET
EDMONTON AB T5J 0P6 CA CANADA

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APR 18 2006

OFFICE OF PETITIONS

In re Application of :
Hal REINELT et al. :
Application No. 10/374,422 :
Filed: February 27, 2003 :
Attorney Docket No. 55635-2 :

ON PETITION

This is a decision on the petition under 37 CFR 1.181, filed March 23, 2006, requesting reconsideration of the previous petition decision mailed January 27, 2006 dismissing the request to withdrawal of the holding of abandonment.

The petition is **GRANTED** to the extent that the decision of January 27, 2006 has been reconsidered and **DISMISSED** with respect to the request to withdraw the holding of abandonment.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.181 must be filed within TWO (2) MONTHS from the mail date of this decision, 37 CFR 1.181(f). No extension of this 2-month time limit can be granted under 37 CFR 1.136(a) or (b).

Petitioner asserts the holding of abandonment be withdrawn as petitioner never received the non-final Office action mailed October 27, 2004. In support of petitioners' assertion petitioner includes copies of: (1) a Revocation of Power of Attorney or Authorization of Agent filed November 21, 2003; (2) a copy of a Power of Attorney or Authorization of Agent filed November 21, 2003; (3) a copy of a return postcard with a date stamp of November 21, 2003 acknowledging receipt of the aforementioned items by the USPTO; and (4) a copy of the Office action mailed October 27, 2004 to Donald V. Tomkins.

37 CFR 1.33(a)(2) states:

(a) *Correspondence address and daytime telephone number.* When filing an application, a correspondence address must be set forth in either an application data sheet (§ 1.76), or elsewhere, in a clearly identifiable manner, in any paper submitted with an application filing. If no correspondence

address is specified, the Office may treat the mailing address of the first named inventor (if provided, see §§ 1.76(b)(1) and 1.63(c)(2)) as the correspondence address. The Office will direct all notices, official letters, and other communications relating to the application to the correspondence address. The Office will not engage in double correspondence with an applicant and a registered patent attorney or patent agent, or with more than one registered patent attorney or patent agent except as deemed necessary by the Director. If more than one correspondence address is specified in a single document, the Office will establish one as the correspondence address and will use the address associated with a Customer Number, if given, over a typed correspondence address. For the party to whom correspondence is to be addressed, a daytime telephone number should be supplied in a clearly identifiable manner and may be changed by any party who may change the correspondence address. The correspondence address may be changed as follows:

(2) *Where a § 1.63 oath or declaration has been filed by any of the inventors.* If a § 1.63 oath or declaration has been filed, or is filed concurrent with the filing of an application, by any of the inventors, the correspondence address may be changed by the
parties set forth in paragraph (b) of this section, except for paragraph (b)(2).

(b) *Amendments and other papers*. Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:

(1) A registered 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.

37 CFR 1.36(a) states:

(a) A power of attorney, pursuant to § 1.32(b), may be revoked at any stage in the proceedings of a case by an applicant for patent (§ 1.41(b)) or an assignee of the entire interest of the applicant. A power of attorney to the patent practitioners associated
with a Customer Number will be treated as a request to revoke any powers of attorney previously given. Fewer than all of the applicants (or by fewer than the assignee of the entire interest of the applicant) may only revoke the power of attorney upon a showing of sufficient cause, and payment of the petition fee set forth in § 1.17(h). A registered patent attorney or patent agent will be notified of the revocation of the power of attorney. Where power of attorney
is given to the patent practitioners associated with a Customer Number (§ 1.32(c)(2)), the practitioners so appointed will also be notified of the revocation of the power of attorney when the power of attorney to all of the practitioners associated with the Customer Number is revoked. The notice of revocation will be mailed to the correspondence address for the application
(§ 1.33) in effect before the revocation. An assignment will not of itself operate as a revocation of a power previously given, but the assignee of the entire interest of the applicant may revoke previous powers of attorney and give another power of attorney of the assignee's own selection as provided in §1.32(b).

37 CFR 3.21 states:

An assignment relating to a patent must identify the patent by the patent number. An assignment relating to a national patent application must identify the national patent application by the application number (consisting of the series code and the serial number, *e.g.*, 07/123,456). An assignment relating to an international patent application which designates the United States of America must identify the international application by the international application number (*e.g.*, PCT/US90/01234). If an assignment of a patent application filed under § 1.53(b) is executed concurrently with, or subsequent to, the execution of the patent application, but before the patent application is filed, it must identify the patent application by the name of each inventor and the title of the invention so that there can be no mistake as to the patent application intended. If an assignment of a provisional application under § 1.53(c) is executed before the provisional application is filed, it must identify the provisional application by the name of each inventor and the title of the invention so that there can be no mistake as to the provisional application intended.

37 CFR 3.73(b) states:

(b)(1) In order to request or take action in a patent or trademark matter, the assignee must establish its ownership of the patent or trademark property of paragraph (a) of this section to the satisfaction of the Director. The establishment of ownership by the assignee may be combined with the paper that requests or takes the action. Ownership is established by submitting to the Office a signed statement identifying the assignee, accompanied by either:

(i) Documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment). The documents submitted to establish ownership may be required to be recorded pursuant to § 3.11 in the assignment records of the Office as a condition to permitting the assignee to take action in a matter pending before the Office; or

(ii) A statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (e.g., reel and frame number).

(2) The submission establishing ownership must show that the person signing the submission is a person authorized to act on behalf of the assignee by:

(i) Including a statement that the person signing the submission is authorized to act on behalf of the assignee; or

(ii) Being signed by a person having apparent authority to sign on behalf of the assignee, e.g., an officer of the assignee.

MPEP 301 V states in part:

Recordation of an assignment in the assignment records of the Office does **not**, by itself, permit the assignee to take action in the application, patent, or other patent proceeding.

MPEP 302.03 states:

The patent or patent application to which an assignment relates must be identified by patent number or application number unless the assignment is executed concurrently with or subsequent to the execution of the application but before the application is filed. Then, the application must be identified by ** the name(s) of the inventors, and the title of the invention. If an assignment of a provisional application is

executed before the provisional application is filed, it must identify the provisional application by name(s) of the inventors and the title of the invention.

The Office makes every effort to provide applicants with the application numbers for newly filed patent applications as soon as possible. It is suggested, however, that an assignment be written to allow entry of the identifying number after the execution of the assignment. An example of acceptable wording is:

"I hereby authorize and request my attorney, (Insert name), of (Insert address), to insert here in parentheses (Application number , filed) the filing date and application number of said application when known."

It is further noted that MPEP 402.05 states that a revocation of the power of attorney becomes effective on the date that the revocation is received in the Office.

In the instant petition, petitioner states that the a Notice of Recordation of Assignment Document, confirming that the assignment of the full interest to assignee and co-inventor Hal Reinelt had been recorded by the USPTO Assignment Division on November 21, 2003. However, the assignment document filed was signed July 14, 2003, which is after the filing of the instant application, therefore the assignment is not proper as it does not identify the patent application by its U.S. application number. See 37 CFR 3.21 and MPEP 302.03. While the USPTO will record an assignment the recordation of the assignment in the assignment records of the Office does not, by itself, permit the assignee to action in the application. Additionally, even the assignment document were a proper assignment, Hal Reinelt failed to properly establish ownership in accordance with 37 CFR 3.73(b).

Since neither the Revocation of Power of Attorney or Authorization of Agent filed November 21, 2003 or the Power of Attorney or Authorization of Agent filed November 21, 2003 were signed by all of the inventors, the non-final Office action mailed October 27, 2004 was mailed to the correct address.

Any renewed petition may be addressed as follows:

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Alexandria, VA 22313-1450

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

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

Telephone inquiries concerning this decision should be directed to David A. Bucci at (571) 272-7099 or in his absence, the undersigned at (571) 272-3217.

Brian Hearn
Petitions Examiner
Office of Petitions

Cc: Vermette & Co.
Box 40 Granville Square
Suite 230, 200 Granville Street
Vancouver, British Columbia, V6C 1S4 Canada

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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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Jacques M. Dulin, Esq.
Innovation Law Group, Ltd.
224 W. Washington St.
NetPort Center, Suite 201
Sequim, WA 98382-3338

In re application of :
Paul J. Humbeutel et al. :
Application No. 10/374,454 :
Filed: February 25, 2003 :
For: DATA CONVERSION SECURE TRANSFER METHOD AND SOFTWARE SYSTEM FOR COURT REPORTERS AND SCOPISTS :

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on March 31, 2005 under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

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

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. Besides giving due notice to his or her client and delivering to the client all papers and property to which the client is entitled as specified under 37 CFR 10.40, approval of such a request requires that the following conditions be met:

A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;

B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and

C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

The request to withdraw as attorney in the above-identified application is not approved as moot because the attorney making the request does not now have, and apparently never has had, power of attorney in this application.

While the original declaration listed Jacques M. Dulin, Esq. Innovation Law Group, Ltd. as the correspondence address, no power of attorney was given.

The new patent administrator should submit a power of attorney and change of correspondence address.

Randolph A. Reese
Special Programs Examiner
Patent Technology Center 3600
(571) 272-6619

RAR/dew: 6/06/05

cc: Diane Van Os, Patent Administrator
8016 South Deercreek Canyon Road
Morrison, CO 80465-9530

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

JACQUES M. DULIN, ESQ.
INNOVATION LAW GROUP, LTD.
224 W. WASHINGTON STREET, SUITE 201
SEQUIM, WA 98382-3338

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MAY 05 2008

OFFICE OF PETITIONS

In re Application of :
HUMBEUTEL, et al. :
Application No. 10/374,454 : DECISION ON PETITION
Filed: February 25, 2003 : TO WITHDRAW
Attorney Docket No. **7126-001US** : 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, 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 Jacques M. Dulin on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Paul J. Humbeutel at the address indicated below.

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **PAUL HUMBEUTEL**
6475 WEST 98TH DRIVE
WESTMINSTER, CO 80021

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

JUN 8 2004

GRAYBEAL, JACKSON, HALEY LLP
155 - 108TH AVENUE NE
SUITE 350
BELLEVUE WA 98004-5901

In re Application of	:
John I. Antonius	:
Serial No.: 10/374,455	: PETITION TO MAKE SPECIAL
Filed: February 25, 2003	:
Attorney Docket No.: 2132-1-3	:

This is in response to applicants' petition filed February 25, 2003, to make the above-identified application special under the provisions of 37 CFR 1.102(c), based on the age of the applicant. The delay in acting on this petition was due to delays in processing in the Office of Initial Patent Examination.

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, IV. Therefor the petition is **GRANTED**.

The application will be forwarded to the examiner for action on the merits commensurate with this decision.

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

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

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)
6887735	2005-05-03	10374462	2003-02-24	LY-09008

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	/TWT/	Date (YYYY-MM-DD)	2009-10-28
Name	Thomas W. Tolpin	Registration Number	27600

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

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6887735
Issue Date: May 3,2005
Application No. 10374462
Filed: February 24,2003
Attorney Docket No. CMSI.002US5

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

This is a decision on the electronic petition, filed October 28,2009 ,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 October 28,2009 . 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.

Ex. J. Epperson

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 7/9/07

TO SPE OF : ART UNIT 1639

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/374,499 Patent No.: 7214487

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: The changes proposed would alter the priority ~~date~~ claim to reach back further than is currently recited. However, since this application was filed after 29 Nov. 2000, such a claim to change priority should have been submitted within four months of filing or 16 months of the earliest priority application, which it was not.

[signature] 1635
SPE Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date Mailed : 08/29/07

Patent No. : 7214487 B2
Patent Issued : 05/08/07
Docket No. : **39750-0016A**

Re: Request for Certificate of Correction

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

Respecting the alleged errors in the documents filed on 07/03/07; please see attachment. **"Therefore, no correction(s) is in order here under United States Codes (U.S.C.) 254 and the Code of Federal Regulation (C.F.R.) 1322."**

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

Lamonte M. Newsome
For Cecelia Newman, Supervisor
Decisions & Certificates
Of Correction Branch
(703) 305-8309 or (703)-308-9390 #112

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

LMN

Ex. J. Epperson

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 7/9/07

TO SPE OF : ART UNIT 1639

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/374,499 Patent No.: 7214487

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: The changes proposed would alter the priority ~~date~~ claim to reach back further than is currently recited. However, since this application was filed after 29 Nov. 2000, such a claim to change priority should have been submitted within four months of filing or 16 months of the earliest priority application, which it was not.

[signature] 1635
SPE Art Unit

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MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

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OFFICE OF PETITIONS

In re Application of
Robl, et al.
Application No. 10/374,512
Filed: February 27, 2003
Attorney Docket No. 60141.14USC1

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

This is a decision on the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed March 12, 2004 (certificate of mailing date March 10, 2004), to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of the prior-filed nonprovisional and provisional applications set forth in the concurrently filed amendment.

The petition is **DISMISSED**.

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

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;

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

(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

The instant petition does not comply with item (1).

37 CFR §§1.78(a)(2)(iii) and 37 CFR 1.78(a)(5)(iii) require that a delayed claim for benefit be included in an application data sheet or the specification must contain or be amended to contain the reference in the first sentence following the title. The amendment filed with the present petition amends the specification to add a reference to the prior-filed applications to the **second paragraph** following the title.

37 CFR 1.77 is clear that the arrangement of an application should be (in pertinent part): Title of Invention; Cross-References to Related Applications; Statement Regarding Federally Sponsored Research or Development.... The present application does not comply with this format.

A renewed petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) and a substitute amendment correcting the above matters are required.

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

Any questions concerning this matter may be directed to Senior Petitions Attorney E. Shirene Willis at (703) 308-6712.

Charles Pearson
Director, Office of Petitions
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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FISH & NEAVE IP GROUP
ROPES & GRAY LLP
1251 AVENUE OF THE AMERICAS FL C3
NEW YORK NY 10020-1105

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OFFICE OF PETITIONS

In re Application of :
Robl, et al. :
Application No. 10/374,512 : DECISION DISMISSING PETITIONS
Filed: Febraury 27, 2003 : UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. 103080-P03-054 :

This is a decision on the reconsideration petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed February 10, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of priority to the prior-filed nonprovisional and provisional applications set forth in the concurrently filed amendment.

The petition is **DISMISSED**

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

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

The petition does not comply with item (1).

The amendment is not acceptable as drafted since it improperly incorporates by reference prior-filed Application No. 09/697,297. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

Before the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) can be granted, a renewed petition and either an Application Data Sheet or a substitute amendment (complying with the provisions of 37 CFR 1.121 or 37 CFR 1.76(b)(5)) to correct the above matter is required.

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

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

By hand: Customer 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 Petitions Attorney E. Shirene Willis at (571) 272-3230.

Frances Hicks
Lead Petitions Examiner
Office of Petitions

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P.O. Box 1450
Alexandria, VA 22313-1450
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GIFFORD, KRASS, SPRINKLE,ANDERSON & CITKOWSKI, P.C.
PO BOX 7021
TROY MI 48007-7021

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OFFICE OF PETITIONS

In re Application of :
Fallat : DECISION ON PETITION
Application No. 10/374,519 :
Filed: February 25, 2003 :
Atty. Dkt. No.: SDL-10003/08 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 19, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely submit a proper reply to the final Office action mailed December 14, 2005. The final Office action set a three (3) month shortened statutory period of time for reply. Notice of Abandonment was mailed August 7, 2006.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(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(b) 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 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 final Office action is accepted as having been unintentionally delayed.

This application file is being forwarded to Technology Center 3700 for processing of the RCE submitted herewith.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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BINGHAM, MCCUTCHEN LLP
THREE EMBARCADERO CENTER
18 FLOOR
SAN FRANCISCO, CA 94111-4067

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OFFICE OF PETITIONS

In re Application of :
Wallace : DECISION ON PETITION
Application No. 10/374,520 :
Filed: February 25, 2003 :
Docket No.: S13.12-0140 :

This is a decision on the petition to revive under 37 CFR 1.181, filed January 25, 2006.

This application was held abandoned August 17, 2005 for failure to timely submit a proper reply to the non-final Office action mailed May 16, 2005. Notice of Abandonment was mailed December 23, 2005.

Petitioner asserts non-receipt of the non-final Office mailed May 16, 2005.

In the absence of any irregularity in the mailing of the non-final Office action, there is a strong presumption that the non-final Office action was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the non-final Office action was not in fact received. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. *See*, MPEP 711.03(c). The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

In support of the petition, petitioner has provided a copy of the docket record where the non-final Office action would have been entered had it been received along with a statement from practitioner that a search of the docket record and file jacket indicated that the non-final Office action was not received.

In view of the evidence presented, the Notice of Abandonment is hereby **WITHDRAWN** and the holding of abandonment is **VACATED**.

The application file is being forwarded to the Technology Center's technical support staff for re-mailing of the non-final Office action. The time period for response will be set to run from the date the new non-final Office is mailed.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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Technology Center 2100

SQUIRE, SANDERS & DEMPSEY L. L. P.
14TH FLOOR
8000 TOWERS CRESCENT
TYSONS CORNER, VA 22182

In re Application of: Biggs,
Application No. 10/374,528
Filed: February 27, 2003
For: SYSTEM AND METHOD FOR SHARING DIGITIAL IMAGES

DECISION ON PETITION FOR ACCELERATED EXAMINATION UNDER M.P.E.P.§708.02(VIII)

This is a decision on the petition filed May 6, 2005 under 37 C.F.R. 102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **Dismissed**.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

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

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

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

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

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

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

The petition filed May 6, 2005 fails to adequately meet requirement (e) of the criteria set forth above. Applicant must provide a detailed discussion of how the claim subject matter is patentable over the references. There is no discussion on how the language of Claim 27 is specifically distinguishable and patentable from the references provided in requirement (d) above. In fact independent claim 27 is not addressed in the instant petition, in regards to patentability over the prior art of record.

Applicant's statement that Sellen does not disclose or suggest generating an "e-mail message" to a recipient and "attaching reduced size image file," are noted to be more specific than the claim recitation sets forth in claim 24. Specifically, petitioner should ensure that the above discussion is directed to how the language of each of the independent claims is specifically distinguishable and patentable from the references provided with the necessary specificity required under 37 CFR 1.111 (b) and (c).

Petition to Make Special **DISMISSED**

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

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

Brian L. Johnson
Special Program Examiner 6/21/05
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

AWK

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

SQUIRE, SANDERS & DEMPSEY L.L.P.
14TH FLOOR
8000 TOWERS CRESCENT
TYSONS CORNER VA 22182

In re Application of: BIGGS, et al.
Application No. 10/374,528
Filed: February 27, 2003
For: SYSTEM AND METHOD FOR SHARING DIGITAL IMAGES

DECISION ON PETITION FOR ACCELERATED EXAMINATION UNDER M.P.E.P.§708.02(VIII)

This is a decision on the Request for Reconsideration of Petition filed July 19, 2005 under 37 C.F.R. 102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **GRANTED**.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

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

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

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

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. 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

RP

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MARVIN H. KLEINBERG
KLEINBERG & LERNER, LLP
2049 CENTURY PARK EAST, SUITE 1080
LOS ANGELES CA 90067

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OFFICE OF PETITIONS

In re Application of :
Paul M. Tsou :
Application No. 10/374,543 : ON PETITION
Filed: February 25, 2003 :
Attorney Docket No. 14137 :

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the response in a timely manner in reply to the Notice mailed April 22, 2003, which set a statutory period for reply of two (2) months. Accordingly, the above-identified application became abandoned on June 23, 2003.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-8859.

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

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

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MARVIN H. KLEINBERG
KLEINBERG & LERNER
2049 CENTURY PARK EAST, SUITE 1080
LOS ANGELES CA 90067

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OCT 0 3 2005

OFFICE OF PETITIONS

In re Application of :
Paul M. Tsou :
Application No. 10/374,543 : DECISION GRANTING PETITION
Filed: February 25, 2003 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 14137 :

This is a decision on the petition, filed March 14, 2005, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on July 9, 2004. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

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

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

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

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

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of January 12, 2006, accompanies this decision on petition.

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

This application is being forwarded to Technology Center Art Unit 3732.

Karen Creasy

Karen Creasy
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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ALEXANDRIA, VA 22313-1450
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VEDDER PRICE KAUFMAN & KAMMHOLZ
222 N. LASALLE STREET
CHICAGO, IL 60601

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JUN 06 2005

OFFICE OF PETITIONS

In re Patent No. 6,784,652 :
Issued: August 31, 2004 :
Application No. 10/374,555 : DECISION REGARDING PTA
Filed: February 25, 2003 :
Atty. Dkt. No.: P05479 :
(N1461.00164) :

This decision is in response to the "PETITION TO CORRECT PATENT TERM ADJUSTMENT," filed October 29, 2004. This request for reconsideration of patent term adjustment will be considered under 37 CFR 1.705(d).

The request for reconsideration of patent term adjustment under 37 CFR 1.705(d) is **GRANTED**.

Patentee requests that the Determination of Patent Term Adjustment be corrected from the 0 day determination indicated on the Letters Patent to a determination of 23 days.

The above-identified application matured into U.S. Patent No. 6,784,652 on August 31, 2004. The instant request for reconsideration was timely filed October 29, 2004 in accordance with 37 C.F.R. § 1.705(d). The patent issued with a PTA of 0 days. Applicant argues that the initial adjustment of 23 days was improperly reduced 92 days in connection with submission of formal drawings.

The Office initially determined a PTA of 23 days[1]. The adjustment of 23 days was reduced an 92 days for applicants' failure to engage in reasonable efforts to conclude prosecution in accordance with 37 CFR 1.704(c)(10) for submission of formal drawings on June 1, 2004. The delay began June 1, 2004, the date of receipt of the drawings, and ended August 31, 2004, the date the patent issued.

Applicant, however, argues that the reduction for submission of the drawings in response to the Notice of Allowability is in error. Applicant argues that formal drawings were submitted on October 20, 2003, after the application was filed, but prior to the mailing of the Notice of Allowability. Applicant further argues that the formal drawings were resubmitted on June 1, 2004 "solely to comply with the

[1] In accordance with 37 CFR 1.702(a)(1), an adjustment of 23 days can be attributed to the Office for failure to mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application was filed. Therefore, in accordance with 37 CFR 1.703(a)(1), the delay began November 1, 2004, the day after the date that is fourteen months after the date on which the application was filed, and ended May 18, 2004, the date of mailing of Notice of Allowance.

Examiner's request in the Notice of Allowance and not because of Assignee error."

Applicants' arguments have been considered and found convincing. A review of the official application file reveals that the application was submitted with informal drawings, but that formal drawings were submitted October 20, 2003 prior to the mailing of Notice of Allowance. It is also acknowledged that the drawings submitted in response to the Notice of Allowability included a reference to the previously filed formal drawings. Thus, compliance with the Notice of Allowability (i.e., re-submission of formal drawings) is not deemed a failure to engage in reasonable efforts to conclude prosecution in the instant matter at hand.

Accordingly, an adjustment of 23 days was proper at the time of issuance of the patent as argued by applicant.

The Office acknowledges receipt of the required patent term adjustment application fee of $200.00.

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 23 days.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (571) 272-3202.

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

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OFFICE OF PETITIONS

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In re Application of :
Charles T. Walneck et al :
Application No. 10/374,564 : ON PETITION
Filed: February 25, 2003 :
Attorney Docket No. 03037 :

This is a decision on the petition, filed June 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 7, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

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

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

The examiner of Technology Center AU 3739 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

cc:
BELL, BOYD & LLOYD
MATTHEW T. RIDSDALE
P.O. BOX 1135
CHICAGO IL 60690-1135

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 : June 22, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Charles T. Walneck et al
Application No. :10/374,564
Filed :February 25, 2003

The above-identified application has been assigned Patent No. 6,913,602 and an issue date of July 5, 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 July 5, 2005:

"All reference to Patent No. 6,913,602 to Charles T. Walneck et al of Illinois for APPARATUS FOR AESTHETIC SKIN TREATMENTS appearing in the Official Gazette of July 5, 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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CHRISTOPHER M. AUBUCHON
1066 METRO CIRCLE
PALO ALTO, CA 94303

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APR 28 2005

OFFICE OF PETITIONS

In re Application of	:	
Christopher M. Aubuchon	:	
Application No. 10/374,574	:	ON PETITION
Filed: February 24, 2003	:	
Attorney Docket No. EXAJ-005	:	

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

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed December 30, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on March 31, 2005.

The Request for Withdrawal as Attorney... filed April 5, 2005 is entered and made of record (copies attached).

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Publishing Division.

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

Attachments: Notice Regarding Change of Power of Attorney
Notice of Acceptance of Power of Attorney

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Director's Office
Group 3700

Jacques M. Dulin, Esq.
Innovation Law Group
271 S. 7th Avenue, Suite 24
Sequim, WA 98382

In re application of
Hans Gunter Horn Et al.

Serial Number: 10/374581
Filed: February 24, 2003

DECISION ON PETITION TO MAKE SPECIAL UNDER 37 CFR. 1.102(c)

For: **SYSTEM AND METHOD FOR GENERATION OF ELECTRICITY AND POWER FROM WASTE HEAT AND SOLAR SOURCES**

This is a decision on the petition filed on July 23, 2004, under 37 CFR. 1.102(c) to make special the above identified application because of the age/health of the applicant. Since the requirements of the M.P.E.P Section 708.02 IV have been met, the petition will be 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 is 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: Decision on Petition **GRANTED**.

Richard A. Bertsch
Director
Technology Center 3700
(703) 308-0975

rt: 9/14/03

Atty Dkt. No. EPI3007G #2
(068904-0313)

jc498 U.S. PTO
10/374603
02/27/03

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Hein et al.

Title: METHOD OF PRODUCING SINGLE CHAIN PROTEIN IN PLANT CELLS

Appl. No.: Unknown (continuation of serial no. 09/200,657)

Filing Date: Herewith

Examiner: Unassigned

Art Unit: Unassigned

PETITION TO MAKE SPECIAL

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

Pursuant to 37 C.F.R. §1.102 and M.P.E.P. 708.02 VII (SPECIAL EXAMINING PROCEDURE FOR CERTAIN NEW APPLICATIONS—ACCELERATED EXAMINATION), Applicants hereby request that the above-captioned application be granted special status and examined expeditiously. In support of this Petition, Applicants submit the following under lettered headings that correspond with the lettered paragraphs of M.P.E.P. 708.02 VII.

(A) Petition and Fee Submitted

This Petition is supported by the enclosed check in the amount of $130, which covers the required petition fee (37 C.F.R. §1.17(h)). Please charge any deficiency or credit any overpayment to our Deposit Account No. 50-0872.

03/03/2003 BNGUYEN1 00000050 10374603
02 FC:1460 130.00 OP

(B) Single Invention Claimed; Election Will Be Made if Required

Applicants believe that all of the claims of the application are directed to a single invention. However, should the Examiner determine otherwise, Applicants will make a telephone election, without traverse, as a prerequisite to the grant of special status.

(C) Pre-examination Search Made

A pre-examination search was made by the European Patent Office ("EPO") during the international phase of the earliest parent of this application. A copy of the EPO's International Search Report ("ISR"; EP 1 048 734 A3) is *attached hereto and incorporated herein by reference*. The ISR lists the field of search by class and subclass, and identifies the references deemed by the EPO to be pertinent to the claimed subject matter.

(D) Copies of Reference

A copy of each of these references is filed concurrently herewith in association with an Information Disclosure Statement accompanying the filing of the instant application. Accordingly, the requirement to submit copies of the references is satisfied. However, should any of the reference copies be missing, it is requested that the Examiner telephone the undersigned, who will immediately obtain and furnish the missing copies. It is also noted that additional references that have come to light and have been filed in later continuation applications are included in the Information Disclosure Statement and are discussed herein.

(E) Detailed Discussion of References and Patentability of Claimed Invention

The present invention is directed to methods of producing a biologically functional a dual chain mammalian protein in a plant. The method comprises preparing plant cells transformed with nucleotide sequence encoding a first and a second chain of the biologically functional dual chain mammalian protein. The nucleotide sequence for each chain also encodes a leader sequence that precedes each encoded chain, the leader sequence forming a secretion signal that is cleaved from each chain following proteolytic processing in the plant cell. After proteolytic processing to remove the leader sequence, the two expressed chains associate and assemble

into a biologically functional mammalian protein. Plant cells that produce the protein are then processed to obtain a preparation of the dual chain mammalian protein. In a preferred embodiment, the heterodimeric mammalian protein is an immunoglobulin.

Referring now to the first reference, During (1988 Koln) alleges in this university dissertation to have succeeded in producing a dual chain immunoglobulin IgM antibody known at B1-8 in plants. Applicants have extensively addressed the many deficiencies in the During dissertation, supported in part by the declaration by Richard Lerner, Ph.D. A copy of the Lerner Declaration filed herewith with exhibits. Any analysis of the prior art in the context of an anticipation or obviousness rejection must be made from the perspective of the ordinary skilled artisan at the proper time frame. Briefly, the Lerner declaration goes to great length to properly ascertain this perspective at the time period beginning from the alleged publication date of the During dissertation (July 1988) and up to the earliest filing date of the above captioned patent application (October 27, 1989). Lerner Declaration, §§ 3-8. Lerner concludes that there is strong evidence at the relevant time period for the existence of a prejudice in the art against the possibility of using plant cells to process and assemble an antigen-specific immunoglobulin. It stands to reason, according to Lerner, that the ordinary skilled artisan in the 1988/1989 time frame would have applied this prejudice to any claim purporting to demonstrate processing and assembly of an antigen-specific immunoglobulin in plant cells and would not have accepted such claim unless the proof was well founded.

Lerner made an extensive analysis of During's experimental results and concluded that they are internally inconsistent and are lacking in critical controls. Lerner declaration, §§ 13-19. For example, During failed to detect light chain expression from a vector that expressed only light chain, but apparently detected the light chain when the heavy chain gene was added to this vector. Lerner declaration §§ 13-15. Lerner further notes that During failed to detect heavy chain expression from his dual chain vector by either direct or indirect Western blotting. *Id*. Although During allegedly detected heavy and light chain expression by tissue printing, Lerner Lerner believes that the tissue printing analysis is subject to alternative explanations because the analysis lacks essential controls. Lerner declaration, §17. Lerner bases his belief

not only on his own experience as a scientist and immunologist for more than 30 years, but also on the scientific literature.

With respect to During's immunogold electron microscopic analysis, Lerner points out that heavy chain expression again was not detected by During and the immunogold labeleling by the B1-8 antibody reagent occurred in areas of the cell that are not consistent with detection of an assembled immunoglobulin. Lerner declaration, §§ 18 and 19. According to Lerner, unusual results might be acceptable if plant cells were capable of antibody assembly in unique and previously unknown ways, however, unusual results cannot make up for the lack of controls in other experiments.

Lerner concludes that a person skilled in the art of immunology or protein expression, circa 1988/1989, would not have reasonably believed the assertion of the During dissertation that plant cells could be used to process and assemble an antigen-specific immunoglobulin. Lerner declaration, § 22. Lerner bases this belief on During's failure to perform critical controls to support his conclusions and to explain his inconsistent results. Also, the Ac38 antibody which underlies virtually all of the support for During's assertion cannot be used, according to Lerner, to prove that NP antigen specific binding was present in transgenic plant cells. Lerner declaration, §22. Thus, even if During had done the proper antigen inhibition controls, more would have been needed, according to Lerner, to overcome the prejudice in the art. Thus, it is concluded that the During dissertation does not teach or otherwise render obvious the expression of mammalian heterodimeric protein in plants.

Referring now to During et al., (Biol. Chem. Hoppe-Seyler, 370:888, 1989), this reference is a meeting abstract of During's dissertation work which asserts without evidence that biologically functional antibody was produced. The work underlying this publication, however, is the During dissertation, which as discussed above, does not enable expression of biologically functional immunoglobulin in plants.

Referring now to EP 0 273889 (Genlux AB), this publication describes the expression of luciferase, a bacterial heteromultimer protein, by coexpressing the luxA and lux B genes in plant cells. It is Applicants understanding that bacterial luciferase is a cytoplasmic protein and that neither the luxA or luxB genes include a signal sequence. The teachings of EP 0 273889 are, by its own admission, limited to expressing <u>bacterial</u> heteromultmeric proteins in

eukaryotic cells. Thus, this reference does not teach a method of expressing a mammalian heteromultimeric protein in plants. Furthermore, the reference does not teach or suggest to encode a leader sequence for each chain, the leader sequence encoding a secretion signal that is cleaved following proteolytic processing, thus allowing said chains to associate and form biologically functional mammalian heterdimeric protein.

Referring now to Beachy et al. (EMBOJ 4:3047-3053, 1985), beta-conglycinin is a multimeric plant protein of about 200 Kd in size, produced by assembly of three polypeptides, an alpha' subunit (76 Kd), an alpha subunit (72 Kd) and a beta subunit (53 Kd). Beachy et al. reports the expression of the alpha' subunit of soybean beta-conglycinin in seeds of a petunia plant. Thus, Beachy et al. does not teach or suggest expression in plants of a biologically functional heteromultimeric mammalian protein.

Referring now to Gatz et al. (Proc Natl Acad Sci USA 85:1394-97, 1988), this reference describes the regulation of a plant promoter in plants using a procaryotic repressor-operator system ((Tn10 encoded *tet* repressor). Such system is proposed for turning plant genes on an off. Neither the repressor or the regulated product (CAT gene) tested by Gatz et al. is a heterodimeric mammalian protein. Thus, this reference does not teach a method of expressing a mammalian heteromultimeric protein in plants. The reference also does not teach or suggest to encode a leader sequence for each chain, the leader sequence forming a secretion signal that is cleaved following proteolytic processing, thus allowing said chains to associate and form biologically functional mammalian heterdimeric protein.

Referring now to Merryweather et al. (J. Cell Biochem, 13d:307, 1989, this meeting abstract describes the regulation of plant genes using procaryotic repressor proteins (e.g., the Lac repressor). Merryweather does not teach or suggest to express any heterodimeric mammalian protein in plants. The reference also does not teach or suggest to encode a leader sequence for each chain, the leader sequence forming a secretion signal that is cleaved following proteolytic processing, thus allowing said chains to associate and form biologically functional mammalian heterdimeric protein.

Referring now to WO 9008829 (pages 6-9, August 1990), this international patent application describes the regulation of plant genes using the bacterial LacI promoter and

expression of bacterial LacI repressor protein. Thus, this reference does not teach a method of expressing a mammalian heteromultimeric protein in plants. The reference also does not teach or suggest to encode a leader sequence for each chain, the leader sequence forming a secretion signal that is cleaved following proteolytic processing, thus allowing said chains to associate and form biologically functional mammalian heterdimeric protein. Furthermore, this reference is published after Applicants earliest filing date.

Referring now to WO 9008830 (pages 30-34, August 1990), this PCT international application teaches methods of disrupting the biogenesis of pollen in plants by expressing a gene that inhibits a characteristic essential to viable pollen (a disrupter) in conjunction with a foreign control element and an expressed foreign repressor specific for the foreign control element. The method produces sterile plants that can be made non-sterile by applying an inhibitor of the repressor protein. Thus, this reference does not teach a method of expressing a mammalian heteromultimeric protein in plants. The reference also does not teach or suggest to encode a leader sequence for each chain, the leader sequence forming a secretion signal that is cleaved following proteolytic processing, thus allowing said chains to associate and form biologically functional mammalian heterdimeric protein. Furthermore, this reference is published after Applicants earliest filing date.

Referring now to Hiatt et al. (Nature, 342(6245):76-78, November 1989), this publication is the inventors own work and is published after the earliest priority date.

Referring now to Hiatt et al. (Nature, 344 (6225):469-470, March 1990), this publication is the inventors own work and is published after the earliest priority date.

Referring now to WO 8700865 (page 5, February 1987), this PCT international patent application by Goodman et al. (same as U.S. Patent no. 4,956,282) describes expression of a fragment of mouse gamma interferon in plant cells. Gamma interferon is not a heteromultimeric mammalian protein. Other than gamma interferon, WO 8700865 makes passing reference to expressing immunoglobulin in plants amidst a laundry list of desired but not enabled applications (page 5, lines 10-20). Thus, WO 8700865 fails to teach any of the factors that one should be aware of when attempting to obtain assembly of a functional multimeric protein. These factors include, for example,: 1) Methods for introducing the

nucleic acid sequences encoding each of the polypeptides into the same host cell. WO 8700865 is silent as to methods for co-transformation of multiple vectors or vectors containing more than one coding nucleic acid sequence; 2) Equivalent expression of each polypeptide chain, produced in sufficient concentration, in the same cellular compartment. WO 8700865 fails to teach transcriptional and translational requirements for expressing multimeric proteins, such requirements being significantly different from the requirements for expressing a single polypeptide. For instance, the promoters operatively linked to the nucleic acid sequences should insure that mRNA expression occurs at the same level; 3) Each polypeptide should have a functional leader sequence which is processed along the protein secretory pathway via proteolytic cleavage; and 4) Methods which allow the regeneration the transformed cell in a manner that ensures that both genes are retained during the process. In view of these and other deficiencies, the mere mention to express a multimer such as an immunoglobulin in WO 8700865 amounts to nothing more than an invitation to experiment. WO 8700865 falls far short of overcoming the perceived prejudice in the art against expressing immunoglobulins in plants, as described in the Lerner Declaration, discussed above. Thus, WO 8700865 does not enable expression in plants of a biologically functional heteromultimeric mammalian protein.

Other references not included in the EPO search report but provided and discussed herein include the following:

Jefferson et al. (EMBOJ 6(13):3901-7, 1987) entitled " GUS Fusions: beta-glucuronidase as a sensitive and versatile gene fusion marker in higher plants." GUS-is a bacterial protein which is enzymatically active as a tetramer of the same subunit. GUS is not a heterodimeric mammalian protein. Thus, Jefferson et al. does not teach or suggest expression in plants of a biologically functional heteromultimeric mammalian protein.

Harpster et al. (Mol Gen Genet 212:182-190, 1988) entitled " Relative strengths of the 35S cauliflower mosaic virus, 1', 2', and nopaline synthetase promoters in transformed tobacco sugarbeet and oilseed rape callus tissue " This reference compares the relative strengths of various plant promoters for expressing a chimeric gene prepared from the chitinase gene (ChiA) gene of Serratia marcescens and the octopine synthetase gene of A. tumefaciens.

It is Applicants' understanding that the ChiA gene and the octopine synthetase gene each encode a single polypeptide that forms a homomultimer in its active state. Thus, Harpster et al. does not teach or suggest expression in plants of a biologically functional heteromultimeric mammalian protein.

Kavanaugh et al. (Mol Gen Genet: 215(1):38-45, 1988) entitled "Targeting a foreign protein to chloroplasts using fusions to the transit peptide of a chlorophyll a/b protein." This reference reports plant expression of chimeric genes comprising fusion of various amino terminal segments of the mature chlorophyll a/b binding (Cab) apoprotein with the E. coli beta-glucuronidase, the later known to be active as a tetramer of a single polypeptide. E. coli beta-glucuronidase is not a heteromultimeric mammalian protein. Thus, Kavanaugh et al. does not teach or suggest expression in plants of a biologically functional heteromultimeric mammalian protein.

Iturriaga et al. (The Plant Cell, 1:381-390, 1989) entitled "Endoplasmic reticulum targeting and glycosylation of hybrid proteins in transgenic plants." This reference describes plant expression of a fusion protein between potato storage protein, patatin, and E. coli beta-glucuronidase (GUS), the latter known to be active as a tetramer of a single polypeptide. E. coli beta-glucuronidase is not a heteromultimeric mammalian protein. Thus, Iturriaga et al. does not teach or suggest expression in plants of a biologically functional heteromultimeric mammalian protein.

Hofte et al.(Microbiol Rev, 53(2):242-255 1989) entitled "Insecticidal Crystal Proteins of Bacillus thuringiensis." This reference describes expression of the Bacillus thuringiensis (Bt) protein in plants. Bt is normally expressed as non glycosylated protein of 230 Kd comprising two identical polypeptides of 130 Kd in size. Bt protein is an inactive protoxin in the dimeric form (230 Kd) but becomes active in vivo following proteolytic cleavage to 64 to 71 kDa polypeptides. Bt is not a heterodimeric mammalian protein. Thus, Hofte et al. does not teach or suggest expression in plants of a biologically functional heteromultimeric mammalian protein.

Inasmuch as all of the requirements for special status under M.P.E.P. 708.02 VIII have been met, it is respectfully requested that the application be granted special status, and be examined expeditiously.

Respectfully submitted,

Date: February 25, 2003

By _____

Barry S. Wilson
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(19) Europäisches Patentamt
European Patent Office
Office européen des brevets

(11) EP 1 048 734 A3

(12) EUROPEAN PATENT APPLICATION

(88) Date of publication A3:
28.11.2001 Bulletin 2001/48

(43) Date of publication A2:
02.11.2000 Bulletin 2000/44

(21) Application number: **00200970.2**

(22) Date of filing: **25.10.1990**

(51) Int Cl.[7]: **C12N 15/82**, C12N 15/13, A01H 5/00

(84) Designated Contracting States:
DE FR GB

(30) Priority: **27.10.1989 US 427765**
02.10.1990 US 591823

(62) Document number(s) of the earlier application(s) in accordance with Art. 76 EPC:
90917366.8 / 0 497 904

(71) Applicant: **The Scripps Research Institute**
La Jolla, CA 92037 (US)

(72) Inventors:
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Fallbrook, CA 92028 (US)

(74) Representative: **Fisher, Adrian John**
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(54) Compositions containing plant-produced glycopolypeptide multimers, multimeric proteins, and their use

(57) The present invention contemplates a transgenic plant having somatic and germ cells containing at least two mammalian genes coding for polypeptides capable of autogenously associating with each other to form a biologically active multimer.

The present invention also contemplates glycopolypeptide multimers having a polypeptide that contains an immunoglobulin amino acid residue sequence and an oligosaccharide that comprises a core pentasaccharide and N-acetylglucosamine-containing outer branches, such that the multimer is free from sialic acid.

The production of passive immunity against a preselected antigen by administering a sialic acid free glycopolypeptide multimer to an animal is also contemplated.

EP 1 048 734 A3

Printed by Jouve, 75001 PARIS (FR)

European Patent Office

EUROPEAN SEARCH REPORT

Application Number
EP 00 20 0970

DOCUMENTS CONSIDERED TO BE RELEVANT

Category	Citation of document with indication, where appropriate, of relevant passages	Relevant to claim	CLASSIFICATION OF THE APPLICATION (Int.Cl.7)
X	DÜRING, K.: "Wundinduzierbare Expression und Sekretion von T4 Lysozym und monoklonalen Antikörpern in Nicotiana tabacum" THESIS, UNIV. KÖLN,1988, XP002178741 * the whole document * ---	1,2,4-6, 9-16, 18-20, 23-27, 29-31, 35-41, 44, 46-57, 63-80, 82-84	C12N15/82 C12N15/13 A01H5/00
X	DÜRING, K. ET AL.: "Synthesis, assembly and targeting of foreign chimeric proteins in transgenic Nicotiana tabacum cells" BIOL. CHEM. HOPPE-SEYLER, vol. 370, 1989, page 888 XP002178742 * the whole document * ---	1,2,4-6, 9-16, 18-20, 23-27, 29-31, 35-41, 44, 46-57, 63-80, 82-84	TECHNICAL FIELDS SEARCHED (Int.Cl.7) C12N
X	EP 0 273 889 A (GENELUX AB) 6 July 1988 (1988-07-06) * the whole document * ---	1,2,7, 10,23	
X	BEACHY R N ET AL: "ACCUMULATION AND ASSEMBLY OF SOYBEAN BETA-CONGLYCININ IN SEEDS OF TRANSFORMED PETUNIA PLANTS" EMBO JOURNAL, IRL PRESS, EYNSHAM, GB, vol. 4, 1985, pages 3047-3053, XP002035495 ISSN: 0261-4189 * page 3050 * --- -/--	1,3,10, 23,44	

The present search report has been drawn up for all claims

Place of search	Date of completion of the search	Examiner
THE HAGUE	28 September 2001	Maddox, A

CATEGORY OF CITED DOCUMENTS

X : particularly relevant if taken alone
Y : particularly relevant if combined with another document of the same category
A : technological background
O : non-written disclosure
P : intermediate document

T : theory or principle underlying the invention
E : earlier patent document, but published on, or after the filing date
D : document cited in the application
L : document cited for other reasons

& : member of the same patent family, corresponding document

FPO FORM 1503 03.82 (P04C01)

European Patent Office

EUROPEAN SEARCH REPORT

Application Number
EP 00 20 0970

DOCUMENTS CONSIDERED TO BE RELEVANT

Category	Citation of document with indication, where appropriate, of relevant passages	Relevant to claim	CLASSIFICATION OF THE APPLICATION (Int.Cl.7)
X	GATZ, C., ET AL.: "Tn10-encoded tet repressor can regulate an operator-containing plant promoter" PROC. NATL. ACAD. SCI., vol. 85, March 1988 (1988-03), pages 1394-1397, XP002178743 * the whole document * ---	1,3,10, 23	
X	MERRYWEATHER, A., ET AL.: "Control of plant gene expression using wild-type and aletred specificity bacterial repressor molecules " JOURNAL OF CELLULAR BIOCHEMISTRY SUPPLEMENT, vol. 13d, March 1989 (1989-03), page 307 XP002178744 * abstract M334 * ---	1,3,10, 23	
P,X	WO 90 08829 A (ICI PLC) 9 August 1990 (1990-08-09) * page 6 - page 10 * ---	1,3,10, 23	
P,X	WO 90 08830 A (ICI PLC) 9 August 1990 (1990-08-09) * page 30 - page 34 * ---	1,3,10, 23	TECHNICAL FIELDS SEARCHED (Int.Cl.7)
P,X	HIATT A ET AL: "PRODUCTION OF ANTIBODIES IN TRANSGENIC PLANTS" NATURE, MACMILLAN JOURNALS LTD. LONDON, GB, vol. 342, no. 6245, 2 November 1989 (1989-11-02), pages 76-78, XP000069445 ISSN: 0028-0836 * the whole document * --- -/--	1,2,4-6, 8-16, 18-20, 23-27, 29-31, 34-41, 44, 46-60, 63-80, 82-84	

The present search report has been drawn up for all claims

Place of search	Date of completion of the search	Examiner
THE HAGUE	28 September 2001	Maddox, A

CATEGORY OF CITED DOCUMENTS

X : particularly relevant if taken alone
Y : particularly relevant if combined with another document of the same category
A : technological background
O : non-written disclosure
P : intermediate document

T : theory or principle underlying the invention
E : earlier patent document, but published on, or after the filing date
D : document cited in the application
L : document cited for other reasons

& : member of the same patent family, corresponding document

EPO FORM 1503 03.82 (P04C01)

European Patent Office

EUROPEAN SEARCH REPORT

Application Number
EP 00 20 0970

DOCUMENTS CONSIDERED TO BE RELEVANT

Category	Citation of document with indication, where appropriate, of relevant passages	Relevant to claim	CLASSIFICATION OF THE APPLICATION (Int.Cl.7)
P,X	HIATT, A.: "Antibodies produced in plants" NATURE, 29 March 1990 (1990-03-29), pages 469-470, XP002178745 * page 470, left-hand column, paragraph 4 * ---	15,38, 53,62, 70,79	
A	WO 87 00865 A (CALGENE INC) 12 February 1987 (1987-02-12) * page 5 * -----	1	

TECHNICAL FIELDS SEARCHED (Int.Cl.7)

The present search report has been drawn up for all claims

Place of search	Date of completion of the search	Examiner
THE HAGUE	28 September 2001	Maddox, A

CATEGORY OF CITED DOCUMENTS

X : particularly relevant if taken alone
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O : non-written disclosure
P : intermediate document

T : theory or principle underlying the invention
E : earlier patent document, but published on, or after the filing date
D : document cited in the application
L : document cited for other reasons

& : member of the same patent family, corresponding document

EPO FORM 1503 03.82 (P04C01)

ANNEX TO THE EUROPEAN SEARCH REPORT ON EUROPEAN PATENT APPLICATION NO. EP 00 20 0970

This annex lists the patent family members relating to the patent documents cited in the above-mentioned European search report. The members are as contained in the European Patent Office EDP file on
The European Patent Office is in no way liable for these particulars which are merely given for the purpose of information.

28-09-2001

Patent document cited in search report	Publication date	Patent family member(s)	Publication date
EP 0273889 A	06-07-1988	EP 0273889 A2	06-07-1988
		JP 1013993 A	18-01-1989
WO 9008829 A	09-08-1990	AU 644783 B2	23-12-1993
		AU 4945390 A	24-08-1990
		CA 2008696 A1	26-07-1990
		EP 0455666 A1	13-11-1991
		WO 9008829 A1	09-08-1990
		ZA 9000607 A	31-10-1990
WO 9008830 A	09-08-1990	AU 621195 B2	05-03-1992
		AU 4945690 A	24-08-1990
		BR 9007061 A	12-11-1991
		CA 2008700 A1	26-07-1990
		EP 0455665 A1	13-11-1991
		WO 9008830 A1	09-08-1990
		HU 60777 A2	28-10-1992
		HU 215090 B	28-09-1998
		JP 4504500 T	13-08-1992
		JP 2001086987 A	03-04-2001
		RO 112642 B1	28-11-1997
		US 5808034 A	15-09-1998
		US 6172279 B1	09-01-2001
		ZA 9000608 A	31-10-1990
WO 8700865 A	12-02-1987	US 4956282 A	11-09-1990
		AT 85361 T	15-02-1993
		AU 603063 B2	08-11-1990
		AU 6196686 A	05-03-1987
		DE 3687705 A1	18-03-1993
		DE 3687705 D1	18-03-1993
		DE 3687705 T2	08-07-1993
		EP 0233915 A1	02-09-1987
		JP 63500425 T	18-02-1988
		WO 8700865 A1	12-02-1987
		US 6096547 A	01-08-2000
		US 5550038 A	27-08-1996
		US 5629175 A	13-05-1997

EPO FORM P0459

For more details about this annex : see Official Journal of the European Patent Office, No. 12/82

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STAAS & HALSEY LLP
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WASHINGTON DC 20005

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JUN 28 2007

OFFICE OF PETITIONS

In re Application of :
Toshimi Kuma et al. :
Application No. 10/374,604 : ON PETITION
Filed: February 5, 2003 :
Attorney Docket No. **442.1015-REC** :

This is a decision on the petition filed April 25, 2005, under 37 CFR 1.181, to withdraw the holding of abandonment for the above-identified application.

The petition to withdraw the holding of abandonment is **GRANTED**.

The application was held abandoned on January 6, 2005 for failure to file a timely response to the non-Final Office Action mailed October 5, 2004, which set a three (3) month shortened period for reply. No extensions of time in accordance with 37 CFR 1.136(a) were obtained. Accordingly, a Notice of Abandonment was mailed April 18, 2005.

Petitioner asserts that a proper response, was filed on February 7, 2005, with a one month extension of time request. In support, petitioner submits a copy of the reply said to have been filed, which includes a postcard receipt date stamped February 9, 2005 by the United States Patent and Trademark Office, and a certificate of mail dated February 7, 2005 as February 5, 2005 was a Saturday.

The evidence submitted corroborates a timely response to the non-Final Office Action. Accordingly, the holding of abandonment is withdrawn and the Notice of Abandonment is vacated. No petition fee is due and none has been charged.

A decision on the response, "Petition Under 37 CFR § 1.183 for waiver of 37 CFR §§ 1.125(d) and 1.173(a)(1)", filed February 9, 2005 will receive treatment under separate decision.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of
Toshimi Kuma et al.
Reissue Application No. 10/374,604
Filing or 371(c) Date: 02/05/2003
Title of Invention:
GAS ADSORBING ELEMENT AND METHOD FOR FORMING SAME

ON PETITION

This is a decision on the February 9, 2005 "Petition Under 37 CFR § 1.183 for Waiver of 37 CFR §§ 1.125(d) and 1.173(a)(1)."

The petition is before the Office of Petitions of the United States Patent and Trademark Office.

The petition is **DISMISSED**.

A fee of $400.00 is required for a petition under 37 CFR 1.183, and per the authorization, has been charged to deposit account no. 19-3935.

DECISION

37 CFR 1.125(d) prohibits the filing of a substitute specification in a reissue application, while the present petition requests entry of the substitute specification filed on February 9, 2005. Accordingly, this petition is being considered as a petition under 37 CFR 1.183 for a waiver of 37 CFR 1.125(d). Further, 37 CFR 1.173(a)(1) requires the filing of the specification in the form of "a copy of the printed patent, in double column format, each page on only one side of a single sheet of paper." The substitute specification filed on February 9, 2005, is not a copy of the printed patent, in double column format. Accordingly, this petition is also being considered as a petition under 37 CFR 1.183 for a waiver of 37 CFR 1.173(a)(1).

On February 9, 2005, the substitute specification was filed together with an Amendment in response to the Office action dated October 5, 2004. It is noted on page 2 of the Office action mailed October 5, 2004, the examiner stated, "Changes made by the Certificate of Correction to the original patent have not been incorporated in the instant specification. Applicant must submit these changes, without underlining or bracketing, either by replacement paragraph, or by submitting a clean copy (i.e. substitute) of the specification. In order for the clean copy to be entered as a substitute specification, the reissue applicant must file a grantable petition under 37 CFR 1.183 for waiver of 37 CFR 1.125(d) and 1.173(a)(1)."

Petitioner is requesting waiver of the requirements of 37 CFR 1.125(d) and 37 CFR 1.173(a)(1) based on the fact that the examiner has required the substitute specification. This basis is considered to be insufficient for granting the petition. 37 CFR 1.183 provides that "in an extraordinary situation, where justice requires" a regulation may be waived. An extraordinary situation is not present where there is an avenue for relief that does not necessitate waiver of any rules. See also *Cantello v. Rasmussen*, 220 USPQ 664 (Comr. 1982) for the principle that extraordinary relief will not normally be considered if the rules provide an avenue for obtaining the relief sought.

In this instance, petitioner fails to show that applicant cannot accomplish the desired result – the entry of an amendment placing the application in proper format – within the ordinary procedures set out by the Office. Petitioner has not shown why the desired result cannot be accomplished by providing replacement paragraphs incorporating the material in the certificate of correction to be entered without the use of underlining and bracketing.

Rather, it appears that applicant can submit an amendment which directs the Office to replace the appropriate paragraphs in order to conform the application to the patent including the changes of certificate of correction. For example, applicant can direct the Office to "replace the paragraph starting on Column 1, line 56, with the following paragraph...," where the paragraph supplied would reflect the change to column 1 line 57 as per the certificate of correction (and as retyped in the substitute specification) with no underlining or brackets provided.

In view of the above discussion, waiver of the rules is inappropriate in this instance. Therefore, the petition is **dismissed**.

The present application was filed for reissue of U.S. patent 5,848,922. It is noted that patent owner filed, on June 5, 2007, the requisite maintenance fee and surcharge along with a petition under 37 CFR 1.378(c) to accept late payment of the 11.5 year maintenance fee of the '922 patent, based upon the patent owner's unintentional failure to timely pay the maintenance fee. The record of the '922 patent reveals that, on August 2, 2007, the Office of Petitions mailed a decision granting the petition to accept late

payment of the 11.5 year maintenance fee of the patent. Applicant should file a copy of that decision in the present record.

CONCLUSION

1. The petition under 37 CFR 1.183 to waive, for the instant application, the requirements of 37 CFR 1.125(d) and 37 CFR 1.173(a)(1) is **dismissed**.

2. Applicant is being provided with a period of **one month** to complete the response with respect to the matter raised in part (1) the Office action dated October 5, 2004, with respect to incorporating the Certificate of Correction to the original patent into the instant specification

3. Jurisdiction over the reissue application is being returned to the Technology Center, Art Unit 1725.

4. Telephone inquiries with regard to this decision should be directed to Senior Petitions Attorney Patricia Faison-Ball, Office of Petitions, at (571) 272-3212.

Kenneth M. Schor
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examining Policy

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Paper No. 6

NOV 24 2003

KIRK J. DENIRO, ESQ.
VIERRA MAGEN MARCUS HARMON & DENIRO LLP
685 MARKET STREET
SUITE 540
SAN FRANCISCO, CA 94105

In re Application of)
Jade M. Kizer)
Application No. 10/374,615)
Filed: February 25, 2003)
Attorney Docket No. RMBS.P119)

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed May 27, 2003.

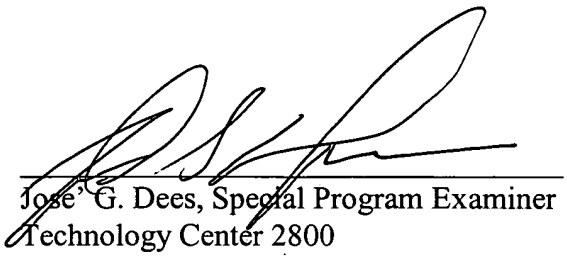
A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that 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 request meet all of the above listed requirements.

The request is APPROVED.

The correspondence address of record remains unchanged.

The application file is being returned to the examiner for examination.



Jose' G. Dees, Special Program Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: SHEMWELL GREGORY & COURTNEY LLP
4880 Stevens Creek Blvd., Ste. 201
San Jose, CA 95129

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OFFICE OF PETITIONS

In re Application of :
Joseph Herzig :
Application No. 10/374,621 : ON PETITION
Filed: February 25, 2003 :
Attorney Docket No.: 14521

This is a decision on the petition filed March 21, 2006 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed June 27, 2005. A shortened statutory period of three months was set for replying to the non-Final Office Action. No extensions of time having been requested, this application became abandoned September 28, 2006. Accordingly, a Notice of Abandonment was mailed on January 31, 2006.

This matter is being referred to Technology Center 2185 for appropriate action on the amendment filed March 21, 2006.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

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

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

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

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

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

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OFFICE OF PETITIONS

In re Application of :
Joseph Herzig :
Application No. 10/374,621 : DECISION ON PETITION
Filed: 25 February, 2003 :
Atty Docket No. 14521 :

This is a decision on the petition filed on 31 January, 2007, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 29 October, 2006, for failure to timely submit the issue fee in response to the Notice of Allowance and Fee(s) Due mailed on 28 July, 2006, which set a

---

[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continuing examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application, abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

three (3) month statutory period for reply. Notice of Abandonment was mailed on 29 November, 2006.

This application is being referred to the Publishing Division for processing into a patent.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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ATLANTA GA 30309

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OFFICE OF PETITIONS

In re Application of :
Kousei Ishibashi, et al. :
Application No. 10/374,625 : ON PETITION
Filed: February 25, 2003 :
Attorney Docket No. 44471-283294 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 23, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the final Office action mailed April 25, 2005. This decision precedes the mailing of a Notice of Abandonment.

The application is revived for consideration of a submission under 37 CFR 1.114 (request for continued examination).

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204.

The application file is being forwarded to Technology Center AU 2883, for further processing of the request for continued examination under 37 CFR 1.114 filed November 23, 2005.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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Paper No. 10

JEFFREY D. JENKINS
512 AMES STREET
LIBERTYVILLE, IL 60048

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JUN 21 2005

OFFICE OF PETITIONS

In re Application of :
Jeffrey D. Jenkins :
Application No. 10/374,667 : ON PETITION
Filed: February 27, 2003 :
For: MARINE ECO-HABITAT SYSTEM :

This is a decision on the petition under 37 CFR 1.137(b), filed May 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 July 21, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on October 22, 2003.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future

correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address of currently of record until such time as appropriate instructions are received to the contrary.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

The application file is being forwarded to Technology Center AU 3643.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: LOWE HAUPTMAN & BERNER
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ALEXANDRIA, VA 22314

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In re Application of	:	
Dhananjay Godse et al	:	
Application No. 10/374,671	:	DECISION ON PETITION
Filed: February 24, 2003	:	TO WITHDRAW
Attorney Docket No. 020510-003700US	:	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 27, 2004.[1]

The petition is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Kenneth Allen on behalf of all attorneys/agents of record who are associated with customer No. 20350.

All attorneys/agents associated with the Customer Number 20350 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

[1] The instant Request to Withdraw as attorney or agent was only recently brought to the attention of the deciding official. The Office sincerely apologizes for the delay in responding to the instant petition and the inconvenience caused petitioner by this delay.

named inventor or the assignee of the entire interest at the below-listed address until otherwise properly notified by the applicants.

Telephone inquires concerning this decision should be directed to Wan Laymon at 571-272-3220.

This application is being referred to Technology Center AU 2121.

Amelia Au
Petitions Examiner
Office of Petitions

cc: KRIS V. KALIDINDI
POTOMAC PATENT GROUP
2010 CORPORATE RIDGE
SUITE 700
MCLEAN, VA 22102

DHANANJAY GODSE
21 LISMER CRESCENT
KANATA, ONTARIO
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SCHWEGMAN, LUNDBERG &
WOESSNERM P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

In re Application of
Matthew S. SOLAR, et al
Application No. 10/374,677
Filed: February 25, 2003
Attorney Docket No. 50741-000011/US

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 27, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Schwegman, Lundberg & Woessner, P.A., has been revoked by the assignee of the patent application on December 7, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: RICHARD W. WARNER
HARNESS, DICKEY &
PIERCE, P.L.C.
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/374,677	02/25/2003	Matthew S. Solar	50741-000011/US

CONFIRMATION NO. 4936

27572
HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

POA ACCEPTANCE LETTER

OC000000025307262

Date Mailed: 08/10/2007

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/08/2007.

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.

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
10/374,677	02/25/2003	Matthew S. Solar	50741-000011/US

CONFIRMATION NO. 4936

21186
SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

POWER OF ATTORNEY NOTICE

Date Mailed: 08/10/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/08/2007.

- 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).

Office of Initial Patent Examination (571) 272-4000 or 1-800-PTO-9199

United States
Patent And
Trademark Office

P.O. Box 1450, Alexandria, Virginia 22313-1450 – www.uspto.gov

PETITION DECISION

04/12/04

Alston & Bird LLP
Bank of America Plaza
101 South Tryon Street, Suite 4000
Charlotte, NC 28280-4000

Dear Applicant:

The Box PG Pub replacement drawings for application number 10/374700 received on 03/10/04 by the U. S. Patent and Trademark Office will be included for patent publication.

Telephone inquiries should be directed to Kaletus King, Office of Pre-Grant Publication 703 605-4283.

Kaletus King

Signature of Reviewer, Office of Pre-Grant Publication

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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MAILED
FROM DIRECTORS OFFICE

MAR 16 2005

TECHNOLOGY CENTER 3600

King & Javanovic, PLC
170 College Avenue
Suite 230
Holland, MI 49423

In re Application of
Samuel J. Morris
Application No. 10/374,704
Filed: February 25, 2003
For: MULCH AND METHOD OF MANUFACTURING MULCH

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on applicant's petition to withdraw the holding of abandonment, filed in the United States Patent and Trademark Office (USPTO), on October 25, 2004.

The petition is **GRANTED** in view of the following evidence of timely filing:

☐ Postcard receipt dated_____.

☐ USPTO return facsimile receipt dated _____ which identifies the application by serial number and the type of Response that was filed on that date.

☒ Certificate of Mailing signed on May 13, 2004 and supported by a statement under 37 C.F.R. 1.8(b)(3), by the attorney requesting withdrawal.

☐ Hand Delivery Receipt of the specific documents submitted dated _____.

☐ Certificate of Transmission of CPA under 37 C.F.R. 1.6 filed on _____.

☐ Express Mail Receipt under 37 C.F.R. 1.10 dated _____.

This application is being forwarded to the Supervisory Legal Instruments Examiner for entry of the response filed with the petition, then to the examiner for prompt action on the response.

KJD/rwg: 2/03/05

KENNETH J. DORNER
SPECIAL PROGRAMS EXAMINER
TECHNOLOGY CENTER 3600

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NIXON & VANDERHYE P.C..
1100 NORTH GLEBE RD.
8TH FLOOR
ARLINGTON, VA 22201

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JUL 15 2004

OFFICE OF PETITIONS

In re Application of
Eamon P. Gleeson, et al.
Application No. 10/374,719
Filed: February 27, 2003
Attorney Docket No. 839-1380

ON PETITION

This is a decision in response to a petition, filed July 14, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid June 16, 2004, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (703) 305-9220.

The application is being referred to Technology Center AU 2855 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1]The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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MORRISON & FOERSTER, LLP
1650 TYSONS BOULEVARD, SUITE 300
MCLEAN, VA 22102

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NOV 07 2007

OFFICE OF PETITIONS

In re Application of :
LEITGEB, et al. :
Application No. 10/374,725 : DECISION ON PETITION
Filed: February 27, 2003 : TO WITHDRAW
Attorney Docket No. **449122052200** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 17, 2007.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to **MORRISON & FOERSTER, LLP** has been revoked by the assignee of the patent application on September 11, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **BELL BOYD & LLOYD, LLP**
P.O. BOX 1135
CHICAGO, IL 60690

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Commissioner for Patents
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HAMILTON & TERRILE, LLP
P.O. BOX 203518
AUSTIN TX 78720

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APR 0 3 2006

OFFICE OF PETITIONS

In re Application of	:	
Demas et al.	:	
Application No. 10/374,734	:	ON PETITION
Filed: February 24, 2003	:	
Attorney Docket No. BP 2631.2	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 16, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an Amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

This matter is being referred to Technology Center 2600 for further examination on the merits.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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CHRISTENSEN, O'CONNOR, JOHNSON, KINDNESS, PLLC
1420 FIFTH AVENUE
SUITE 2800
SEATTLE, WA 98101-2347

Mail Date: 04/20/2010

Applicant	: Joan E. Sanders	: DECISION ON REQUEST FOR
Patent Number	: 7622299	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/374,755	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/24/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **938** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Paper No. 7

JOHN O'TOOLE
GENERAL MILLS, INC.
1 GENERAL MILLS BLVD.
P.O. BOX 1113
MINNEAPOLIS, MN 55440

COPY MAILED

JUN 2 9 2004

OFFICE OF PETITIONS

In re Application of :
Philip K. Zietlow, et al. :
Application No. 10/374,758 : ON PETITION
Filed: February 25, 2003 :
Attorney Docket No. 5615US :

This is a decision on the petition under 37 CFR 1.137(b), filed January 12, 2004, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application mailed April 18, 2003. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on June 19, 2003.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-5594.

The application file is being forwarded to the Office of Initial Patent Examination for further processing.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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KRISHNA KALIDINDI
POTOMACK PATENT GROUP
2010 CORPORATE RIDGE
SUITE 700
MCLEAN, VA 22102

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JUN 23 2006

OFFICE OF PETITIONS

In re Application of	:	
Michael Gazier et al	:	
Application No. 10/374,775	:	DECISION ON PETITION
Filed: February 24, 2003	:	TO WITHDRAW
Attorney Docket No. 020510-003600US	:	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 16, 2005.

The request is **NOT APPROVED**.

A review of the file record indicates that Kris (Krishna) Kalidindi 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.[1] Accordingly, the request to withdraw under 37 C.F.R. § 1.136(b) is not applicable.

A power of attorney submitted on September 2, 2005 and March 7, 2006 were improper. In this regard, compliance with 37 CFR 3.73(b) has not been satisfied in that the reel and 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 to be acceptable, compliance with 37 C.F.R. 3.73(b) must be satisfied. A form for complying with the provisions of 37 C.F.R. 3.73(b) may be found on the USPTO.gov website (Form No. PTO/SB/96).

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 applicants.

---

[1] The Request for Withdrawal as Attorney or Agent filed September 27, 2004, request to change the correspondence address of record is not acceptable as the requested correspondence is not that of: (1) the first named signing inventor; or (2) the intervening assignee of the entire interest.

Telephone inquires concerning this decision should be directed to Wan Laymon at 571-272-3220.

This application is being referred to Technology Center AU 2154.

David Bucci
Petitions Examiner
Office of Petitions

cc: MICHAEL GAZIER
30-C BENLEA DRIVE
NEPEAN, ONTARIO
K2G 4A8
CANADA

MEREK BLACKMON & VOORHEES
673 S. WASHINGTON ST
ALEXANDRIA, VA 22314

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. 7

HUGHES ELECTRONICS CORPORATION
PATENT DOCKET ADMINISTRATION
BLDG 001 M/S A109
P O BOX 956
EL SEGUNDO, CA 90245-0956

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SEP 2 2 2003

OFFICE OF PETITIONS

In re Application of :
Grundy, et al. :
Application No. 10/374,776 : DECISION GRANTING PETITION
Filed: March 10, 2003 :
Attorney Docket No. PD-201114A :

This is a decision on "Letter Requesting Correction of Filing Receipt" filed July 31, 2003. The filing of July 31, 2003, will be treated as a petition under 37 CFR 1.10 to accord the above-cited application a filing date of March 10, 2003, rather than the presently accorded filing date of March 11, 2003.

Petitioner alleges that the application was deposited with the Express Mail Service on March 10, 2003. In support of the allegation, the petition is accompanied by a copy of Express Mail label No. EL451599730US (the same Express Mail label number was placed on the original application papers located in the official file) showing a "date-in" of March 10, 2003.

In view of the above, the petition is granted.

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of March 10, 2003, and for issuance of a corrected filing receipt.

Any inquiries related to this decision should be directed to the undersigned at (703) 305-0010

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DAVID B. RITHIE
THELEN REID & PRIEST LLP
P.O. BOX 640640
SAN JOSE, CA 95164-0640

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DEC 18 2006

OFFICE OF PETITIONS

In re Application of	:	
NGUYEN, et al.	:	
Application No. 10/374,777	:	DECISION ON PETITION
Filed: February 24, 2003	:	TO WITHDRAW
Attorney Docket No. 042390.P9185D2	:	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 07, 2004.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to THELEN REID & PRIEST LLP has been revoked by the assignee of the patent application on September 28, 2004. 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 address indicated below until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Patricia Volpe at 571-272- 6825.

Patricia Volpe
Petitions Examiner
Office of Petitions

cc: **INTEL/BLAKELY**
12400 WILSHIRE BOULEVARD, SEVENTH FLOOR
LOS ANGELES CA 90025-1030

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/374,777	02/24/2003	Hungviet Nguyen	INTL-P9185D2

CONFIRMATION NO. 2080

OC000000021641283

David B. Ritchie
Thelen Reid & Priest LLP
P. O. Box 640640
San Jose, CA 95164-0640

Date Mailed: 12/18/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/28/2004.

- 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).

PATRICIA A VOLPE
OP (571) 272-6825

FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Nicole A. Ressue
125 South Howes, Third Floor
Fort Collins, CO 80521

Paper No.

MAILED: March , 2007

In re Application of Rovani et al.:
Application No. 10/774,779:
Filing Date: February 25, 2003:
For: CONTINUOUS ON-LINE PROCESS CONTROL OF RESIDUA DISTILLATION

DECISION ON PETITION 37 C.F.R. § 1.48(b)

This is a decision on the petition under 37 CFR § 1.48(b) filed March 23, 2005.

On March 23, 2005, the present petition and a check for $130.00 petition fee were filed. Petitioners request amendment of the inventorship to delete Thomas F. Turner as an inventor.

37 CFR 1.48 Correction of inventorship states, in part:

(b) *Nonprovisional application —fewer inventors due to amendment or cancellation of claims . If the correct inventors are named in a nonprovisional application, and the prosecution of the nonprovisional application results in the amendment or cancellation of claims so that fewer than all of the currently named inventors are the actual inventors of the invention being claimed in the non-provisional application, an amendment must be filed requesting deletion of the* name or names of the person or persons who are not inventors of the invention *being claimed. If the application is involved in an interference, the amendment must comply with the requirements of this section and must be accompanied by a motion under § 1.634. Amendment of the inventorship requires:*
(1) A request, signed by a party set forth in §1.33(b), to correct the inventorship that identifies the named inventor or inventor's being deleted and acknowledges that the inventor's invention is no longer being claimed in the nonprovisional application; and
(2) The processing fee set forth in § 1.17(i).

A review of the record reveals that petitioner has complied with all the conditions in 37 CFR § 1.48(a). The petition is granted. A corrected filing receipt naming the actual inventors of the above-identified patent, namely, Joseph F. Rovani JR and John F. Schabron.

PETITION GRANTED

Yelena G. Gakh, Ph.D.
Primary Patent Examiner
Art Unit 1743

UNITED STATES PATENT AND TRADEMARK OFFICE

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425 MARKET STREET
SAN FRANCISCO CA 94066

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APR 0 5 2006

OFFICE OF PETITIONS

In re Application of
Bradley K. Sherman et al.
Application No. 10/374,780
Filed: February 25, 2003
Attorney Docket No. 514442002621

: DECISION ON PETITIONS
: UNDER 37 CFR 1.78(a)(3)
: AND 37 CFR 1.78(a)(6)
:

This is a decision on the petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed January 13, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment and Application Data Sheet (ADS).

The petitions are **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

> **(1)** the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
> **(2)** the surcharge set forth in § 1.17(t); and
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed applications is submitted after expiration of the period specified in 37 CFR § 1.78(a)(2)(ii) and 37 CFR 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR § 1.78(a)(3) and 37 CFR 1.78(a)(6).

The petition complies with the requirements for a grantable petition under 37 CFR §1.78(a)(3) and 37 CFR 1.78(a)(6) in that (1) a reference to the prior-filed applications has been included in an amendment to the first sentence of the specification following the title and in an Application Data Sheet, as provided by 37 CFR § 1.78(a)(2)(iii) and 37 CFR 1.78(a)(5)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been

submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §§120 and 119(e) to the prior-filed applications satisfies the conditions of 37 CFR § 1.78(a)(3) and 37 CFR 1.78(a)(6), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR § 1.78(a)(3) and 37 CFR 1.78(a)(6) should not be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed applications, accompanies this decision on petition.

Any questions concerning this matter may be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212. 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 1638 for appropriate action on the amendment submitted January 13, 2006, including consideration by the examiner of the claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of the prior-filed applications.

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT : Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

MAY - 9 2005

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DAVID M. GRYTE
HARNESS, DICKEY & PIERCE, P.L.C.
SUITE 400
7700 BONHOMME
ST. LOUIS, MO 63105

In re Application of Narain *et. al.*
Serial No.: 10/374,781
Filed: February 25, 2003
Attorney Docket No.: 3015/8A

: PETITION DECISION

This is in response to the petition under 37 CFR 1.181, filed February 17, 2005, for withdrawal of abandonment.

A review of the file history shows that the Examiner mailed a non-final Office Action to Applicants on July 16, 2004. On February 23, 2005, the Examiner contacted Applicants to inform them that their application was on the verge of being deemed abandoned since the maximum reply period of six months expired without a response being properly recorded by the Office.

Applicants stated during the phone conversation that the July 16, 2004 Office Action was responded to in a timely fashion, on October 18, 2004. After talking to Applicant the examiner did not abandoned the application. On March 4, 2005 Applicants sent in a copy of the October 18 2004 Response which included, a Terminal Disclaimer, an amendment transmittal letter date, a certificate of mailing by first class mail, and a self-addressed postcard listing to support their allegation that the response was timely. However, Applicants also enclosed a petition to withdraw abandonment as part of the March 4, 2005 submission, which was not necessary since the case was not abandoned. The Examiner relied on resubmitted copies of the October 18, 2004 response to send out an Office Communication, mailed April 11, 2005. In light of the current pending status of the instant case, a Withdrawal of Abandonment is moot.

The petition is therefore **DISMISSED**.

Should there be any questions about this decision please contact Jean Vollano, by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0648, or by facsimile sent to the general Office facsimile number, 703-872-9306.

Jean F. Vollano for
Bruce Kisliuk
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Date : November 29, 2006

Patent No. : 7,037,592 B2
Inventor(s) : Zhu, et al.
Issued : May 2, 2006
Title : **HYBRID COMPOSITE OF SILICONE AND ORGANIC RESINS**
Docket No. : 7019-P300.001/DOM0001PA

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of 37 CFR 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Fee(s) Transmittal Form PTOL-85B. After payment of the issue fee, correction of assignment data submitted on the PTOL-85B can only be done by Certificate of Correction under 37 CFR 1.323, with a request under 37 CFR 3.81(b).

A request for a patent to be corrected to state the name of the assignee must:

A. state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent;
B. include a request for a certificate of correction under 37 CFR 1.323 along with the fee set forth in 37 CFR 1.20(a); and
C. include the processing fee set forth in 37 CFR 1.17(i).

If the request is granted, Certificates of Correction Branch will be notified that a Certificate of Correction may be issued.

See Manual of Patent Examining Procedure, Section 1481.01 (Rev. 3) (Oct. 2005).

Applicant has not included items A and or C above, accordingly, the request for Certificate of Correction to add or change the assignee data is dismissed.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: 571-273-8300
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 or (703) 308-

Kevin S. MacKenzie
Clark Hill PLC
500 Woodward Avenue, Suite 3500
Detroit MI 48226-3435

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

DINSMORE & SHOHL LLP
ONE DAYTON CENTRE, ONE SOUTH MAIN STREET
SUITE 1300
DAYTON OH 45402-2023

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SEP 27 2007
OFFICE OF PETITIONS

In re Patent No. 7,037,592 :
Issue Date: May 2, 2006 :
Application No. 10/374,802 : ON PETITION
Filed: February 25, 2003 :
Attorney Docket No. 7019-P3011.001/DOM :
0001 PA/36603.1

This is a decision on the petition filed January 5, 2007, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3230. 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.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
www.uspto.go

Paper No. 5

BARLOW, JOSEPHS & HOLMES, Ltd.
101 Dyer Street, 5th Floor
Providence, RI 02903

MAILED

JUL 22 2003

OFFICE OF DIRECTOR
GROUP

In re Application of
GALLI, Robert D.
Application No. 10/374,814
Filed: February 25, 2003
Attorney Docket No. P00515-US4

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition under 37 C.F.R. § 1.102, filed March 26, 2003, to make the above-identified application special.

Petitioner requests that the above-identified application be made special under the accelerated examination procedure set forth in the Manual of Patent Examining Procedure (M.P.E.P.), Section 708.02, Item VIII: Accelerated Examination.

A grantable petition to make special under 37 C.F.R. § 1.102 and in accordance with M.P.E.P., Section 708.02, Item VIII, must be accompanied by (a) the fee set forth in 37 C.F.R. § 1.17(h), (b) a statement that all claims are directed a single invention or an offer to make an oral election without traverse should the Patent and Trademark Office hold that the claims are not directed to a single invention, (c) a statement that a pre-examination search has been made by the inventor, attorney, agent, professional searcher, etc., and a listing of the field of search by class and subclass, (d) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims, and (e) a detailed description of the submitted references and discussions pointing out how the claimed subject matter is distinguishable over these references.

The petition lacks item (b) above. To expedite the examining proceeding of this application, the claims were given a cursory review by the examiner and deemed not to be directed to a single invention. The claims appear to be directed to two groups, Group I, claims 1-10 and Group II, claims 11-24. A telephone call to Mr. Mark Tetreault on July 7, 2003 resulted in the election of Group I, without traverse.

For the above stated reasons, the petition is GRANTED.

The application is being forwarded to the examiner for examination under the accelerated examination procedure.

The application is being forwarded to the examiner for expedited prosecution.

If the examiner can make this application special without prejudice to any possible interfering applications, and he/she should make a rigid search for such, he/she is authorized to do so for the next action. Should the application be rejected, the application will not be considered special for the subsequent action unless the applicant promptly makes a bona fide effort to place the application in condition for allowance, even if it is necessary to have an interview with the examiner to accomplish this purpose.

If the examiner finds any interfering application for the same subject matter, he/she should consider such application simultaneously with this application and should state in the official letter of such application that she/he is taking it out of its turn because of possible interference.

Should an appeal be taken in this application or should this application becomes involved in an interference, consideration of the appeal and the interference will be expedited by all Patent and Trademark Office officials concerned, contingent likewise upon diligent prosecution by the applicant.

After allowance, this application will be given priority for printing. See M.P.E.P. § 1309.

The petition is granted to the extent indicated.

Jose G. Dees, Special Program Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 6

BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD, SEVENTH FLOOR
LOS ANGELES CA 90025

COPY MAILED

JAN 0 9 2004

OFFICE OF PETITIONS

In re Application of
Resnitzky & Naaman
Application No.: 10/374,848
Filed: February 24, 2003
Attorney Docket No.: 6534P001
For: METHOD FOR SECURED DATA PROCESSING

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed November 14, 2003 (certificate of mailing date November 12, 2003).

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

The above-identified application was filed on February 24, 2003 without an executed oath or declaration. On May 15, 2003, a Notice to File Missing Parts of Nonprovisional Application (Notice) was mailed. This Notice required petitioner to file an executed declaration and a surcharge for its late filing within two months of the mail date of the Notice.

In response, on November 14, 2003 (certificate of mailing date November 12, 2003), a petition for a four month extension of time and required fee, a declaration executed by 1 of 2 joint inventors, the surcharge, the petition fee, and the instant petition were filed. A declaration of facts of joint inventor Uri Resnitzky accompanied the petition. Mr. Resnitzky explains that non-signing joint inventor Nir Naaman received a copy of the application and declaration for the above-identified application, but refused to sign the declaration for the patent application.

A grantable petition under 37 CFR 1.47(a) requires

(1) a petition including proof of the pertinent facts establishing that the joint inventor(s) refuses to join, or cannot be found or reached after diligent effort,
(2) a proper oath or Declaration executed by the available joint inventor(s),
(3) the fee of $130 as specified in 37 CFR § 1.17(h), and
(4) the last known address of the omitted inventor(s).

This petition lacks item (2) above.

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 still has not been presented. Mr. Naaman's residence and mailing address is not listed on

the declaration.

The available inventor must execute a new declaration that lists all identifying information for himself and Mr. Naaman, including Mr. Naaman's residence and mailing address. MPEP 605.03.

An oath or declaration in compliance with 37 CFR 1.63 and 1.64 signed by the Rule 1.47 applicant on behalf of Mr. Naaman is REQUIRED. See MPEP 409.03(a).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Crystal Plaza 1 Lobby
2011 South Clark Place
Room 1B03
Arlington, VA 22202

By FAX: (703) 872-9306
ATTN: Office of Petitions

Telephone inquiries should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

NIR NAAMAN
82 SHILOH ST.
ROSH HAAYIN
48036 ISRAEL

COPY MAILED

FEB 11 2004

OFFICE OF PETITIONS

In re Application of :
Resnitzky & Naaman :
Application No.: 10/374,848 : LETTER
Filed: February 24, 2003 :
Attorney Docket No.: 6534P001 :
For: METHOD FOR SECURED DATA PROCESSING :

Dear Mr. Naaman:

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: BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD, SEVENTH FLOOR
LOS ANGELES CA 90025

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 9

BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD, SEVENTH FLOOR
LOS ANGELES CA 90025

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FEB 11 2004

OFFICE OF PETITIONS

In re Application of
Resnitzky & Naaman
Application No.: 10/374,848
Filed: February 24, 2003
Attorney Docket No.: 6534P001
For: METHOD FOR SECURED DATA PROCESSING

DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the reconsideration petition under 37 CFR 1.47(a), filed February 3, 2004 (certificate of mailing date January 30, 2004).

The petition is granted.

Petitioner has shown that the non-signing inventor, Nir Naaman, has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the declaration of facts of joint inventor Uri Resnitzky establishes that the non-signing inventor was successfully mailed the application papers, including the specification, claims and drawings, but refused to sign the declaration. Petitioner has submitted a declaration in compliance with 37 CFR 1.63 and 1.64.

This application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the above-identified application will be forwarded to Technology Center GAU 2132 for examination in due course.

Telephone inquiries should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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

SONNENSCHEIN NATH & ROSENTHAL LLP
P.O. BOX 061080
WACKER DRIVE STATION, SEARS TOWER
CHICAGO, IL 60606-1080

In re Application of :
Uri Resnitzky et al :
Application No. 10/374,848 : ON PETITION
Filed: February 24, 2003 :
Attorney Docket No. 6534P001 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 19, 2009, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed May 8, 2008, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on August 9, 2008.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2434 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Pearl Cohen Zedek Latzer, LLP
1500 Broadway, 12th Floor
New York, NY 10036

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I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313

Date: March 1, 2004 | Name: Elizabeth Swift | Signature: Elizabeth Swift

OIPE JC
MAR 03 2004
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Design Application of: J. Thomas Light	)	Art Unit: 3671
Serial No.: 10/374,854	)	Confirmation No. 6320
Filing Date: September 29, 2003	)	Dkt No. 565647.0002
For: **SNOW BLOWER WITH GLIDE WHEELS**	)	

ATTN: OIPE
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313

PETITION UNDER 37 CFR § 1.10(c)

Dear Sir:

Pursuant to 37 CFR 1.10(c), Applicant hereby submits this Petition to Correct Filing Date in the above-identified application. As shown by the attached evidence, the correspondence comprising the application was deposited directly with an employee of the United States Postal Service ("USPS") Hartford, Connecticut, 06101, as "Express Mail Post Office To Addressee" under Express Mail Label No. EV335595952US on September 29, 2003.

Applicant petitions to correct a discrepancy between the date of deposit as shown by the "date-in" and the filing date accorded by the USPTO.

In support of this Petition, Applicant submits herewith a true copy of Express Mail Label No. EV335595952US, showing both a hand-written and stamped "date-in" of September 29, 2003, in compliance with 37 CFR 1.10(c)(3).

Having learned of the error in the filing date from indications on the return receipt post card and Filing Receipt, Applicant has proceeded promptly to collect all requisite information and evidence and to prepare this petition upon learning of the error in accordance with 37 CFR 1.10(c)(1).

The number of the "Express Mail" mailing label was placed on the correspondence prior to mailing in accordance with M.P.E.P. § 513, in that the "Certificate Of Express Mailing" cover letter listed the Express Mail number and itemized the separate papers submitted. Applicant thereby meets the requirements of 37 C.F.R. § 1.10(c)(2).

It is respectfully submitted that Applicant has satisfied the standards as set forth in M.P.E.P. § 513 and 37 C.F.R. 1.10(c). Accordingly, it is respectfully requested that Applicant's Petition to Correct Filing Date be granted.

No fee is believed to be required with this submission. However, if any fee or extension is required, please consider this a petition therefor, or otherwise if necessary to cover any deficiency in fees already paid, authorization is hereby given to charge our Deposit Account No. 50-1402.

Respectfully submitted,

Date: March 1, 2004

By E. E. Grondahl

Eric E. Grondahl (Reg. No. 46,741)
McCarter & English, LLP
CityPlace I
185 Asylum Street
Hartford, CT 06103
Tel: (860) 275-6719
Fax: (860) 724-3397
HARTFORD: 609981.01

EV 335595952 US

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Post Office To Addressee

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Date In: 9 29 03 (Mo. Day Year)	☐ 12 Noon ☒ 3 PM	Postage: $ 13 65
Time In: ☐ AM ☒ PM	Military: ☐ 2nd Day ☐ 3rd Day	Return Receipt Fee
Weight: 6 lbs. 15 ozs.	Int'l Alpha Country Code	COD Fee / Insurance Fee: 6T
No Delivery: ☐ Weekend ☐ Holiday	Acceptance Clerk Initials: C	Total Postage & Fees: $ 13

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Delivery Attempt: Mo. Day	Time: ☐ AM ☐ PM	Employee Signature
Delivery Attempt: Mo. Day	Time: ☐ AM ☐ PM	Employee Signature
Delivery Date: Mo. Day	Time: ☐ AM ☐ PM	Employee Signature

HARTFORD, CT SEP 29 2003 USPS

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FROM: (PLEASE PRINT) PHONE (860) 275-6700

MARK D GIARRATANA, ESQ
CUMMINGS & LOCKWOOD
185 ASYLUM ST STE 35
HARTFORD CT 06103-3408

EG LIT-101 565647.0002

TO: (PLEASE PRINT) PHONE ( )

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September 29, 2003

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LEGAL PATENT RECORDS CENTER
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4417 LANCASTER PIKE
WILMINGTON DE 19805

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OCT 05 2007

OFFICE OF PETITIONS

In re Application of :
BLANCHET-FINCHER et al. :
Application No. 10/374,875 : ON PETITION
Filed: 02/26/2003 :
Attorney Docket No. CL2011 US NA :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 10, 2007, to revive the above-identified application.

The petition is GRANTED.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of October 3, 2005. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). Petitioner obtained an extension of time for response within the first month pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is February 4, 2006. A Notice of Abandonment was mailed on August 1, 2006.

In response to the final Office action, petitioner filed an amendment and a request for continued examination (RCE). The Examiner reviewed the amendment of May 10, 2007, and determined that the amendment does not place the application in condition for allowance. A copy of the Examiner's Advisory Action accompanies this decision. Nevertheless, petitioner filed a proper reply to the outstanding Office action in the form of a RCE (and fee) and a submission.

Accordingly, the petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a RCE (and fee) and the submission required by 37 CFR 1.114; (2) the petition fee; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3211.

This application is being referred to Technology Center AU 1751 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Advisory Action

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20091106

DATE : May 14, 2008

TO SPE OF : ART UNIT 2474

SUBJECT : Request for Certificate of Correction on Patent No.: 10/374,889

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:

/Aung S. Moe/
Supervisory Patent Examiner, Art Unit 2474

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20091106

DATE : May 14, 2008

TO SPE OF : ART UNIT 2474

SUBJECT : Request for Certificate of Correction on Patent No.: 10/374,889

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:

/Aung S. Moe/
Supervisory Patent Examiner, Art Unit 2474

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : May 28, 2008

TO SPE OF : ART UNIT 3766

SUBJECT : Request for Certificate of Correction for Appl. No 10/374899patent no7317950

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: CORRECTED DEPENDENCY PROBLEM IN CLAIM 43.

Carl H. Layno — SPE

3766 — 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. 3

GAMBRO, INC
PATENT DEPARTMENT
10810 W COLLINS AVE
LAKEWOOD CO 80215

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JUN 0 5 2003

OFFICE OF PETITIONS

In re Application of
McBurney, et al.
Application No. 10/374,907
Filed: February 23, 2003
Attorney Docket No. BC-0284-US02
For: STORAGE SOLUTION CONTAINING PHOTOSENSITIZER FOR INACTIVATION OF BIOLOGICAL CONTAMINANTS

: DECISION DISMISSING
: PETITION

This is a decision on the petition filed May 20, 2003 by facsimile, requesting that the above-identified application be accorded a filing date of February 25, 2003, rather than the presently accorded filing date of February 23, 2003. The petition will be treated under 37 CFR 1.10(d).

Petitioners allege that the application was deposited in Express Mail service on February 25, 2003.

Paragraph (a) of 37 CFR 1.10 states that:

> Any correspondence received by the Patent and Trademark Office (Office) that was delivered by the "Express Mail Post Office to Addressee" service of the United States Postal Service (USPS) will be considered filed in the Office on the date of deposit with the USPS. The date of deposit with the USPS is shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation. If the USPS deposit date cannot be determined, the correspondence will be accorded the Office receipt date as the filing date. See §1.6(a).

(Emphasis supplied). Paragraph (d) of 37 CFR 1.10 states that:

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and
> (3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in "Express Mail Post Office to Addressee" service prior to the last

scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

A grantable petition under 37 CFR 1.10(d) must include "a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day." In addition, the showing "must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the 'Express Mail Post Office to Addressee' service of the USPS."

The petition filed May 20, 2003, does not include the corroborating evidence required by the rule. A certificate of mailing cannot be used to establish a filing date for an application. In addition, all evidence presented points to a deposit date of February 23, 2003. While it is noted that February 23, 2003 is a Sunday and USPS offices are typically not open on a Sunday, petitioners have not provided persuasive evidence as to what date **is** the proper date of deposit.

Petitioners are encouraged to submit corroborating evidence such as an Express Mail mail log that shows a package associated with Express Mail label no. EV116731411US was deposited in Express Mail service on February 25, 2003 or any contemporaneous business record that supports the assertion of a February 25, 2003 deposit. The corroborating evidence must have been created after deposit of the package **and** within one business day of deposit.

Accordingly, the petition to accord a February 25, 2003 filing date is **DISMISSED**. No petition fee has been or will be charged in connection with this matter.

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 Four, Suite 3C23
2201 South Clark Place
Arlington, VA 22202
Attn: E. Shirene Willis

By Fax: (703) 308-6916
ATTN: Office of Petitions -- E. Shirene Willis

After the mailing of this decision, the application file will be forwarded to Technology Center 1600 for examination in due course, with the presently accorded filing date of February 23, 2003.

Telephone inquiries specific to this matter should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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

LAURA M. BUTTERFIELD
GAMBRO, INC.
10810 W. COLLINS AVE.
LAKEWOOD, CO 80215

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OCT 0 9 2003

OFFICE OF PETITIONS

In re Application of	:
McBurney et al.	:DECISION GRANTING
Application No. 10/374,907	: PETITION
Filed: 25 February, 2003	:
Attorney Docket No. BC-0284-US02	:

This is a decision on the petition, filed by facsimile on 18 and supplemented on 23 September, 2003, which is treated as a renewed petition under 37 CFR 1.10(d) requesting that the above-identified application be accorded a filing date of 25 February, 2003, rather than the presently accorded filing date of 23 February, 2003.

Petitioner alleges that the application was deposited in Express Mail service on 25 February, 2003. Although the USPS Express Mail Customer Label bears a "date-in" of 23 February, 2003, petitioners have supplied an affidavit of Pauline Lubin, an employee of the USPS at the 15th and Oak, Lakewood, CO, Post Office, the post office from which the present application was mailed, stating that she believes that the package bearing Express Mail No. EV116731411US (the same Express Mail tracking number found on the itemized transmittal sheet accompanying the original application papers) was received by the USPS and shipped on 25 February, 2003.

In view of the evidence present in the file, it is concluded that the "date-in" shown on the Express Mail label is incorrect and that the correct date of deposit in Express Mail service is 25 February, 2003.

In view of the above, the petition is granted. No petition fee is required and none has been charged.

The application is being forwarded to the Office of Initial Patent Examination for correction of the filing date to **25 February, 2003.**

Application No. 10/374,907

Telephone inquiries specific to this matter 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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JOHN BRUCKNER, P.C.
P.O. BOX 490
FLAGSTAFF, AZ 86002

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JAN 14 2009

OFFICE OF PETITIONS

In re Application of :
Milton N. Ericson, et al. :
Application No. 10/374,928 : ON PETITION
Filed: February 24, 2003 :
Attorney Docket No. UBAT1480-1 :

This is a decision on the petition, filed October 10, 2008, to revive the above-identified application under 37 CFR 1.137(b).

The petition is GRANTED.

The two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision.

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of March 19, 2008. A Notice of Abandonment was mailed on September 30, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (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). On October 10, 2008 the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal and appeal fee of $540; (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay.

This application is being referred to Technology Center AU 3736 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. Inquiries relating to the prosecution of the application should be referred to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
www.uspto.gov

Stephen M. De Klerk
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
Seventh Floor
12400 Wilshire Boulevard
Los Angeles, CA 90025-1026

Mail Date: 04/21/2010

Applicant	: Jong-Won Kim	: DECISION ON REQUEST FOR
Patent Number	: 7594274	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/374,929	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/25/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **790** 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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WALL & TONG, LLP/
ALCATEL-LUCENT USA INC.
595 SHREWSBURY AVENUE
SHREWSBURY, NJ 07702

Mail Date: 04/21/2010

Applicant	: Xue Li	: DECISION ON REQUEST FOR
Patent Number	: 7577161	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/374,931	: 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 **1189** 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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OCT - 7 2003

PAPER NO. 4

In re Application of
Milan Bier
Serial No: 10/374,943
Filed: February 26, 2003
For: VARIABLE–VOLUME DISPOSABLE ISOELECTRIC FOCUSING CELL

PETITION UNDER
M.P.E.P. 708.02, IV

This is in response to the petition filed February 26, 2003, requesting that the above-identified application be granted Special Status under Section 708.02, IV of the MPEP and 37 CFR 1.102(c).

The petition has been considered and found to comply with the requirements set forth under the above-noted section. Accordingly, the petition is granted.

The petition is **GRANTED.**

JMStone

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Durando Birdwell & Janke, P.L.C.
2929 E. Broadway Blvd.
Tucson, AZ 85716

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Mailed: 5-30-06

In re application of	:	
Jung-Il Nam et al.	:	DECISION ON
Serial No. 10/374,980	:	PETITION
Filed: March 3, 2003	:	

For: SECONDARY BATTERY WITH ENHANCED ABILITY TO PREVENT LEAKAGE

This is a decision on the PETITION UNDER 37 CFR 1.181 TO WITHDRAW THE FINALITY OF THE OFFICE ACTION mailed March 13, 2006.

On March 13, 2006, a final office action was mailed by the examiner in response to a applicant's amendment, filed February 1, 2006.

Applicant's position for the withdrawal of the finality is that no clear issue and no complete and proper office action as been established between the examiner and applicants prior to the final rejection. It is also the position of applicant that the office action fails to discuss all of the limitations of the claims.

DECISION

Section 706.07 of the MPEP states:

Under present practice, second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p).

Before final rejection is in order a clear issue should be developed between the examiner and applicant. To bring the prosecution to as speedy conclusion as possible and at the same time to deal justly by both the applicant and the public, the invention as disclosed and claimed should be thoroughly searched in the first action and the references fully applied; and in reply to this action the applicant should amend with a view to avoiding all the grounds of rejection and objection. Switching from one subject matter to another in the claims presented by applicant in successive amendments, or from one set of references to another by the examiner in rejecting in successive actions claims of substantially the same subject matter, will alike tend to defeat attaining the goal of reaching a clearly defined issue for an early termination, i.e., either an allowance of the application or a final rejection.

Petitioner first argues that the final office action quotes very large portions of the reference to support the art rejection and thus does not provide particular or specific sections of the reference where support for the rejection is found. This argument is not persuasive. The examiner did point out in the reference where support for the rejection was found. Specifically, the examiner pointed to the abstract, Figures 3 and 4, and certain passages of the reference, which amounts to two pages of the patent reference. The level of particular support the examiner provided for the art rejection is deemed sufficient with respect to 37 CFR 1.104.

Next, it is argued that the examiner fails to discuss all of the limitations of the claims. This argument is not persuasive. In the non-final office action and in the final-office action, the examiner specifically discusses the limitations in question in the 112, 2nd paragraph and 102 rejection sections and addresses how the art reads on these limitations. The examiner clearly has considered the limitations and put forth his position and applicants had ample opportunity to respond to this position. It appears that there is a disagreement between the examiner and the applicant as to the clarity and scope of the claims and as to whether or not the art teaches the claimed subject matter. This is not a petitionable matter. Such an argument is appropriate for the Board of Patent Appeals and Interferences.

Accordingly, a clear issue has been developed in the instant prosecution. The examiner has taken the position that the reference meets the instantly claimed invention, in light of the scope and lack of clarity in the claims. While applicants disagree with this position, nonetheless, a clear issue for appeal to the Board of Appeals has been developed.

Because a clear issue has been developed, the finality of the March 13, 2006 office action was proper and the petition is **DENIED.**

Applicant's time for response to the March 13, 2006 office action continues to run as set forth in the office action.

JMStone

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Robert E. Bushnell
1522 "K" Street N.W., Suite 300
Washington, DC 20005

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Mailed: 10/23/06 meb

In re application of :
Jung-Il Nam et al. : DECISION ON
Serial No. 10/374,980 : PETITION
Filed: March 3, 2003 :
For: SECONDARY BATTERY WITH ENHANCED ABILITY TO PREVENT LEAKAGE

This is a decision on the PETITION UNDER 37 CFR 1.181, filed September 26, 2006, requesting that the requirement to label Figures 5 and 6 as "Prior Art" be withdrawn.

On September 18, 2006, an office action was mailed by the examiner containing a requirement to label Figures 5 and 6, as Prior Art, since only that which is old is illustrated.

A review of the application indicates that the subject matter in Figures 5 and 6 illustrates a secondary battery and a cap for the battery. However, there is no indication in the disclosure that the subject matter depicted in Figures 5 and 6 is expressly considered by the Applicant to be "Prior Art".

The petition is **GRANTED**.

Accordingly, the requirement that Figures 5 and 6 be labeled as "Prior Art" is withdrawn. It is noted that Applicant's time for response to the September 18, 2006 office action continues to run as set forth in the office action.

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Robert E. Bushnell
1522 "K" Street N.W., Suite 300
Washington, DC 20005

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Arnold & Porter LLP
Attn: IP Docketing Department
555 Twelfth Street, NW
Washington, DC 20004-1206

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OFFICE OF PETITIONS

In re Application of
William J. Hawkins et al.
Application No. 10/375,028
Filed: February 28, 2003
Attorney Docket No. 18196.002

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Requests to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 9, 2007 and June 15, 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 requests were signed by David R. Marsh on behalf of all attorneys of record who are associated with customer No. 28381. All attorneys/agents associated with the Customer Number 28381 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. Accordingly, all correspondence will be mailed to the first signing inventor. A courtesy copy of this decision will be mailed to the address noted on the request.

There are no outstanding Office actions at this time.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Frances Hicks
Petitions Examiner
Office of Petitions

cc: William J. Hawkins
6877 Gulf of Mexico Drive
Longboat Key, FL 34228

cc: Mediaware Corporation
Peterfia u. 53.
Debrecen, H-4026
HUNGARY

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/375,028	02/28/2003	William J. Hawkins	18196.002

CONFIRMATION NO. 5634

OC000000025199056

28381
ARNOLD & PORTER LLP
ATTN: IP DOCKETING DEPT.
555 TWELFTH STREET, N.W.
WASHINGTON, DC 20004-1206

Date Mailed: 08/06/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/15/2007.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

Kimberly Brabnet

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

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ALLEN D. BRUFSKY, PA
475 Galleon Dr.
Naples, FL. 34102

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OFFICE OF PETITIONS

In re Application of :
William J. HAWKINS et al :
Application No. 10/375,028 : DECISION ON PETITION
Filed: February 28, 2003 : TO MAKE SPECIAL UNDER
Attorney Docket No. 18196.002 : 37 CFR 1.102(d)
:

This is a decision on the renewed petition under 37 CFR §1.102(d), filed July 1, 2009, to make the above-identified application special based on actual infringement as set forth in M.P.E.P. § 708.02, Section II.

The petition is **DISMISSED.**

Any petition to make special, other than those based on applicant's health or age or the Patent Prosecution Highway pilot program, filed on or after August 25, 2006 must meet the requirements for the revised accelerated examination program. See MPEP 708.02(a) for the guidelines required in a petition for accelerated examination.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-0602.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

Thurman K. Page
Petitions Examiner
Office of Petitions

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KELLEY DRYE & WARREN LLP
400 ALTANTIC STREET, 13TH FLOOR
STAMFORD, CT 06901

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JUL 13 2009

OFFICE OF PETITIONS

In re Application of :
Lee ROSEN, et al :
Application No. 10/375,045 : DECISION ON PETITION
Filed: February 28, 2003 : TO WITHDRAW
Attorney Docket No. NU-193(US) FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 22, 2009.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request cannot be approved because the attorneys of record were not appointed by Customer Number 47670, as indicated.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: WOLF GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON, MA 02210-2206

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KELLEY DRYE & WARREN LLP
400 ATLANTIC STREET, 13TH FLOOR
STAMFORD, CT 06901

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OCT 22 2009

OFFICE OF PETITIONS

In re Application of	:	
Lee ROSEN, et al	:	
Application No. 10/375,045	:	DECISION ON PETITION
Filed: February 28, 2003	:	TO WITHDRAW
Attorney Docket No. NU-193(US)	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 14, 2009.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to Kelley, Drye & Warren, LLP, has been revoked by the assignee of the patent application on August 12, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by the applicant.

Telephone inquires concerning this decision should be directed to undersigned at 571-272- 6735.

/Diane Goodwyn/
Petitions Examiner
Office of Petitions

cc: WOLF GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON, MA 02210-2206

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/375,045	02/28/2003	Lee Rosen	NU-193(US)

CONFIRMATION NO. 7684

23628
WOLF GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON, MA 02210-2206

POA ACCEPTANCE LETTER

OC000000038402515

Date Mailed: 10/21/2009

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/12/2009.

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 Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/375,045	02/28/2003	Lee Rosen	NU-193(US)

CONFIRMATION NO. 7684

POWER OF ATTORNEY NOTICE

47670
KELLEY DRYE & WARREN LLP
400 ALTLANTIC STREET , 13TH FLOOR
STAMFORD, CT 06901

Date Mailed: 10/21/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/12/2009.

- 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 Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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August 10, 2006

FILE COPY

Patent No. : 6,748,786 B2
Ser. No. : 10/375085
Inventor(s) : Ooyauchi, et al.
Issued : June 15, 2004
Title : **METAL TUBULAR BODY AND MANUFACTURING METHOD THEREOF**
Docket No. : **1029650-000133**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this mater, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, , no additional fee is required.

Elisha Evans
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 ext. 110 or (703) 308-8309

BURNS, DOANE, SWECKER & MATHIS, L.L.P.
P.O. Box 1404
Alexandria VA 22313-1404

CBN/eme

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Alexandria, VA 22313-1404

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JUL 23 2007

OFFICE OF PETITIONS

In re Patent No. 6,748,786 :
Issue Date: June 15, 2004 :
Application No. 10/375,085 : ON PETITION
Filed: February 28, 2003 :
Patentee(s): Tetsuya Ooyauchi, et. al. :

This is a decision on the request under 37 CFR 3.81[1] filed on August 18, 2006, to correct the data of the second assignee listed on the front page of the above-identified patent by way of a Certificate of Correction. The delay in responding is regretted.

The petition is **GRANTED**.

Since petitioner submitted $100 for the requested Certificate of Correction on July 31, 2006 and on August 18, 2006, one of the above payments will be treated as a duplicate and $100 will be credited to petitioner's credit card, in due course.

The patent file is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3226. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

Andrea Smith
Petitions Examiner
Office of Petitions

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[1] *See Official Gazette of June 22, 2004*

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Paper No. 4

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

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JUL 22 2003

OFFICE OF PETITIONS

In re Application of :
Funaki et al. :
Application No. 10/375,129 : ON PETITION
Filed: February 28, 2003 :
Attorney Docket No.: 3273-0166P :

This is a decision on the petition filed June 30, 2003, requesting in effect, that a Notice to File Missing Parts in a Nonprovisional Application ("Notice") mailed May 20, 2003, be withdrawn. The petition was filed under 37 CFR 1.182 but is being treated under 37 CFR 1.53.

The application was filed on February 28, 2003. However, on May 20, 2003, the Office of Initial Patent Examination (OIPE) mailed a Notice stating that the application had been accorded a filing date of February 28, 2003 but pages 84 and 97 of the specification (description and claims) appeared to have been omitted.

In response, the present petition was filed wherein Petitioner contends pages 84 and 97 of the specification were filed on February 28, 2003. In support, the petition is accompanied by a copy of applicants' return postcard which lists 154 pages of specification. The petition is further accompanied by a copy of pages 84 and 97 of the specification.

Applicant's postcard receipt is prima facie evidence that 154 pages of specification (description and claims) were received on February 28, 2003, but pages 84 and 97 are not present in the file. Hence, it is clear that the papers for this application were mishandled by the Office. Therefore, it is concluded that pages 84 and 97 of specification were received on February 28, 2003, as shown in counsel's file, and later misplaced in the office.

The petition is Granted. The petition fee of $130.00 is being credited to deposit account 02-2448.

Since the pages 84 and 97 of the original specification cannot be located in the Office, pages 84 and 97 of the specification supplied on June 30, 2003, will be used for processing and examination purposes.

The application will be returned to the Office of Initial Patent Examination for further processing with a filing date of February 28, 2003, using substitute pages 84 and 97 of the specification supplied on June 30, 2003.

Telephone inquiries related to this decision may be directed to Petitions Attorney Charlema R. Grant at (703) 306-0251.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

OLIFF & BERRIDGE, PLC.
P. O. BOX 19928
ALEXANDRIA, VA 22320

In re Application of
Yutaka Nishino, et al.
Application No. 10/375,130
Filed: February 28,2003
Attorney Docket No. 115199

ON PETITION

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 13, 2004, 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 4, 2004, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.

Telephone inquiries relating to this decision should be directed to the undersigned at (703) 305-9220.

After the application is received in the Office of Petitions, the file will be forwarded to Technology Center AU 2812 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1]The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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LOUIS J. WILLE
BRISTOL-MYERS SQUIBB COMPANY
PATENT DEPARTMENT
P O BOX 4000
PRINCETON NJ 08543-4000

In re Application of	:	
Lauren E. Barber et al	:	
Serial No.: 10/375,157	:	PETITION DECISION
Filed: February 26, 2003	:	
Attorney Docket No.: D0077A	:	

This is a decision on the PETITION FOR ACCEPTANCE OF COLOR DRAWINGS UNDER 37 CFR 1.84(a)(2). The petition was filed July 17, 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

LOUIS J WILLE
BRISTOL-MYERS SQUIBB COMPANY
PATENT DEPARTMENT
P O BOX 4000
PRINCETON NJ 08543-4000

In re Application of	:	
Feder, et al.	:	DECISION ON APPLICATION
Application No. 10/375,157	:	FOR PATENT TERM ADJUSTMENT
Filed: February 26, 2003	:	
Patent No. 7,312,086	:	
Issued: December 25, 2007	:	
Attorney Docket No. D0077A CIP	:	

This letter is in response to the "LETTER TO CORRECT PATENT TERM ADJUSTMENT PERIOD IN GRANTED PATENT NO. 7,312,086", filed January 16, 2008. Patentees request that the patent term adjustment under 35 U.S.C. §154(b) be corrected from one hundred fifty (150) days to one hundred thirty-five (135).

The request for correction of the initial determination of patent term adjustment (PTA) is **DISMISSED**.

On December 25, 2007, the above-identified application issued into Patent No. 7,312,086 with a patent term adjustment of three one hundred fifty (150) days. On January 16, 2008, patentees filed the instant good faith and candor letter, pointing out that the correct patent term should only be one hundred thirty-five (135) days.

The Office determined a patent term adjustment of one hundred fifty (150) days based on an adjustment for PTO delay of two hundred ninety (290) days, pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. §1.703(a)(1), and thirty-eight (38) days pursuant to 35 U.S.C. 154(b)(1)(A)(iv) and 37 C.F.R. § 1.703(a)(6), reduced by applicants' delays of thirty-one (31) and twenty-seven (27) days pursuant to 37 C.F.R. § 1.704(b), and ninety-four (94) and twenty-six (26) days pursuant to 37 C.F.R. § 1.704(c)(10). The adjustments of 94 and 26 days are at issue.

37 C.F.R. § 1.704(c)(10) states:

> 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.

The Office mailed a Notice of Allowance on April 18, 2007. Applicants timely paid the issue on July 17, 2007. However, applicants filed two additional papers after the mailing of the Notice of Allowance. In the first instance, applicants filed a petition under 37 CFR 1.48 on July 10, 2007. The Office mailed a response on October 18, 2007. In the second instance, applicants filed a petition to accept color drawings on July 17, 2007. The petition was granted in a decision mailed on September 14, 2007. As such, there were two instances of 37 CFR 1.704(c)(10) delay. However, the periods of the two instances overlapped. 37 CFR 1.704(c)(10) states that the period of adjustment shall be reduced by the **lesser of** (i) - the number of days, or (ii) four months. As such, the adjustment of 94 and 26 days, for a total of 120 days (four months), is correct.

As the instant letter was submitted to advise the Office of an error in Patentees' favor, the $200.00 application fee under 37 C.F.R. §1.705(b) was not required, and has not been charged. The Office thanks Patentees for their good faith and candor in bringing this matter to the attention of the Office.

Telephone inquiries specific to this letter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

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SEP 25 2009

OFFICE OF PETITIONS

In re Application of
Jay R. WALTON, et *al.*
Application No. 10/375,162
Filed: February 25, 2003
Attorney Docket No. **030075**

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 13, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision.

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of September 11, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is December 12, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal; (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253.

This application is being referred to Technology Center AU 2419 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

Brian W. Brown
Petitions Examiner
Office of Petitions

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THOMTE, MAZOUR & NIEBERGALL, L.L.C.
2120 S. 72ND STREET, SUITE 1111
OMAHA, NE 68124

COPY MAILED

JUN 13 2005

OFFICE OF PETITIONS

In re Application of	:	
Lynne E. Chrisp	:	
Application No. 10/375,186	:	ON PETITION
Filed: February 26, 2003	:	
Attorney Docket No. N/A	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 9, 2005, to revive the above-identified application.

In response to the Notice of Allowance mailed November 22, 2004, petitioner hereby submits $750 for the petition to revive fee, $700 for the issue fee payment, and the statement of unintentional delay as required by 37 CFR 1.137(b).

Since petitioner has met the requirements to revive this application, pursuant to 37 CFR 1.137(b), the petition is **GRANTED**.

There is no indication that petitioner has submitted an Issue Fee Transmittal Form (PTOL-85b). Accordingly, if petitioner desires to have the information normally found thereon printed on the patent, the attached blank Issue Fee Transmittal Form should be completed and returned to the Publishing Division within **ONE MONTH** from the mail date of this decision.

The application file is being referred to the Office of Publications for further processing 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
Office of the Deputy Commissioner
for Patent Examination Policy

Enclosure: Privacy Statement
Issue Fee Transmittal Form (PTOL-85b)

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MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA, VA 22314

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FEB 2 3 2006

TECHNOLOGY CENTER 2100

In re Application of: Nakano, et al.
Application No. 10/375,197
Filed: February 28, 2003
For: PROGRAM WITH PLURAL OF INDEPENDENT ADMINISTRATIVE AREA INFO. AND AN INFO. PROCESSOR USING THE SAME

DECISION ON PETITION
TO MAKE SPECIAL
(ACCELERATED EXAMINATION)
UNDER M.P.E.P. §708.02 (VIII)

This is a decision on the petition to make special under 37 C.F.R. §102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination, originally filed on March 14, 2005, and the supplemental petition filed on June 22, 2005.

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 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

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MATTINGLY, STANGER & MALUR, P.C.
ATTORNEYS AT LAW
SUITE 370
1800 DIAGONAL ROAD
ALEXANDRIA VA 22314

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APR 19 2005
Technology Center 2100

In re Application of: Furukawa, et al.
Application No. 10/375,199
Filed: February 28, 2003
For: STORAGE MANAGING COMPUTER AND PROGRAM RECORDING MEDIUM THEREFOR

DECISION ON PETITION
TO MAKE SPECIAL
(ACCELERATED EXAMINATION)
UNDER M.P.E.P. §708.02 (VIII)

This is a response to the petition filed 07 March 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 **DISMISSED**.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in **37 CFR 1.17(h)**;

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

In those instances where the request for this special status does not meet all the prerequisites set forth above, **applicant will be notified and the defects in the request will be stated.** The application will remain in the status of a new application awaiting action in its regular turn. In those instances where a request is defective in one or more respects, applicant will be given one opportunity to perfect the request in a renewed petition to make special. If perfected, the request will then be granted. If not perfected in the first renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Technology Center (TC) Special Program Examiner.

The petition filed 07 March 2005 fails to adequately meet requirement (e) of the criteria set forth above. The discussion of the references does not point out with the particularity required by 37 CFR 1.111(b) and (c) how the claimed subject matter is patentable over the references. Rather, the identical statement, that none of the references describe or suggest essentially the entirety of independent claims 1, 8, and 9, is presented for each of the five references deemed "most closely related". Petitioner should ensure that the above discussion is directed to how the language of each of the independent claims is **specifically** distinguishable and patentable from **each** of the references provided in requirement (d) above.

Petition to Make Special **DISMISSED**.

Petitioner is given one opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the mail date of this decision.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

Pinchus M. Laufer
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3599

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1800 Diagonal Rd., Suite 370
Alexandria, Virginia 22314

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JUN 2 5 2005

Technology Center 2100

In re Application of: Furukawa, et al.
Application No. 10/375,199
Filed: 28 February 2003
For: STORAGE MANAGING COMPUTER AND PROGRAM RECORDING MEDIUM THEREFOR

DECISION ON PETITION FOR ACCELERATED EXAMINATION UNDER M.P.E.P.§708.02(VIII)

This is a decision on the Request for Reconsideration filed 02 June 2005 on the petition to make special under 37 C.F.R. §102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination, originally filed on 07 March 2005, and dismissed in the decision mailed 19 April 2005.

The Petition is **GRANTED**.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

Petition to Make Special **GRANTED** since all of the requirements for special status under MPEP § 708.02(VIII) have 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

6/17/05

GO

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WESTBERG LAW OFFICES
569 Clyde Ave. Ste. 530
Mountain View, CA 94043

Mail Date: 06/04/2010

Applicant	: Jeffrey C. Chu	: DECISION ON REQUEST FOR
Patent Number	: 7639761	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/375,221	: 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 **1161** 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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DILWORTH & BARRESE, LLP
333 EARLE OVINGTON BLVD.
UNIONDALE NY 11553

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AUG 18 2006

OFFICE OF PETITIONS

In re Application of	:	
Kelley et al.	:	
Application No. 10/375,233	:	ON PETITION
Filed: February 27, 2003	:	
Attorney Docket No. 1238-2	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed June 30, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an Amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

This matter is being referred to Technology Center 2100 for further examination on the merits.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3206.

Liana Chase
Petitions Examiner
Office of Petitions

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MCAFEE & TAFT
TENTH FLOOR, TWO LEADERSHIP SQUARE
211 NORTH ROBINSON
OKLAHOMA CITY OK 73102

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JUL 15 2005

OFFICE OF PETITIONS

In re Application of	:	
Bell et al.	:	
Application No. 10/375,236	:	ON PETITION
Filed: February 27, 2003	:	
Attorney Docket No. 0636-1-1	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed June 3, 2005, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to timely reply to the final Office action mailed August 26, 2004. No extensions of time under the provisions of 37 CFR 1.136(a) were timely obtained. Accordingly, this application became abandoned on November 27, 2004. A Notice of Abandonment was mailed March 28, 2005.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $1020.00 extension of time fee submitted with the petition on June 3, 2005 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account as authorized.

This matter is being referred to 3600 for further examination on the merits.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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BIOMERIEUX, INC.
PATENT DEPARTMENT
100 RODOLPHE STREET
DURHAM, NC 27712

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JUL 23 2007

OFFICE OF PETITIONS

In re Application of :
Cheng Hock Toh et al :
Application No. 10/375,251 : ON PETITION
Filed: February 27, 2003 :
Attorney Docket No. 01000 - DLM :

This is a decision on the petition under 37 CFR 1.137(b), filed February 27, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action mailed August 21, 2006, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on November 22, 2006.

The above-identified application is being revived solely for purposes of continuity with a Request For Continued Examination (RCE) filed on February 27, 2007.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 1743 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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Cynthia L. Foulke
Intellectual Property
NATIONAL STARCH AND CHEMICAL COMPANY
10 Finderne Avenue
Bridgewater NJ 08807-0500

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JUL 24 2007

OFFICE OF PETITIONS

In re Application of :
PAUL et al. :
Application No. 10/375,270 : ON PETITION
Filed: February 27, 2003 :
Attorney Docket No. 1905D :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 13, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of August 29, 2006. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). A two-month extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is January 30, 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), the fee of $790, and the submission of January 29, 2007 required by 37 CFR 1.114; (2) the petition fee of $1500; and (3) a proper statement of unintentional delay.

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.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4787.

This application is being referred to Technology Center AU 3721 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.

Denise Pothier
Petitions Examiner
Office of Petitions

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PILLSBURY WINTHROP SHAW PITTMAN LLP
P O BOX 10500
McLEAN, VA 22102

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APR 0 4 2006

OFFICE OF PETITIONS

In re Application of :
Hideki Kemmochi et al :
Application No. 10/375,272 : DECISION GRANTING PETITION
Filed: February 27, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. P 0302139 H7866US :

This is a decision on the petition, filed March 24, 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 February 14, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2837 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\Apr9\375272.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).*

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JUN 27 2003

REEXAM UNIT

Woodard, Emhardt, Moriarity,
McNett & Henry LLP
Bank One Center Tower
111monument Circle, Suite 3700
Indianapolis IN 46204-5137

In re Application of:
Michael Draper
Appl. No. 10/375,274
Filed February 27, 2003
For: METHODS OF USE FOR INHIBITING BONE LOSS AND LOWERING SERUM CHOLESTEROL

DECISION GRANTING PETITION TO EXPEDITE PROSECUTION

Applicant's petition of June 9, 2003, under 37 CFR 1.182, to act on the reissue application without the standard two-month delay period following announcement of the reissue filing in the *Official Gazette* is before the Office of Patent Legal Administration.

The petition is granted.

DISCUSSION

This application for reissue was filed on February 27, 2003.

The announcement of reissue filing for the present application was published in the *Official Gazette* (O.G.) on June 3, 2003.

Office policy normally provides for a two-month delay in examination following the announcement of the filing of the reissue in the O.G. MPEP 1441.

Applicant has requested via this petition a waiver of the policy set forth in MPEP 1441 as to the delay of examination following the announcement of a reissue application filing in the O.G. Such waiver is requested due to current involvement of the original patent (U.S.P. 5,478,847) in litigation.

DECISION

The two-month delay period following the *Official Gazette* notice of the reissue filing is provided in order that members of the public may have an opportunity to inspect and review the reissue application and submit pertinent information to the Office in the form of a protest under 37 CFR 1.291(a) prior to the examiner's first Office action on the merits.

The granting of petitioner's request for expedited examination does not close or remove the public's opportunity to protest the

reissue application. Should a protest be filed in this application within two months from the date of the O.G. announcement, the examiner is instructed to proceed according to the provisions of 37 CFR 1.291, as well as MPEP §§ 1901.04 and 1901.06.

In the event an early determination of allowable subject matter is made by the examiner and made known to applicant, the application will be retained in the Technology Center pending expiration of the two month delay period (after publication in the O.G.), **prior to the mailing of a formal Notice of Allowance.**

CONCLUSION

The petition is granted.

The application is being forwarded to Technology Center 1600 for immediate examination as soon as practicable.

Any further questions regarding the matter of this decision should be directed to Joseph Narcavage, Office of Patent Legal Administration, at (703) 305-1795.

Kenneth M. Schor
Senior Legal Advisor
Office of Patent Legal Administration

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MAR 16 2007

OFFICE OF PETITIONS

Pillsbury Winthrop Shaw Pittman, LLP
P.O. Box 10500
Mclean, VA 22102

In re Application of :

Soheil Shams :
Application No. 10/375,289 : DECISION ON PETITION
Filed: February 27, 2003 : TO WITHDRAW
Attorney Docket No. 30499158v1 : 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 18, 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 James G. Gatto on behalf of all attorneys of record.

All attorneys/agents have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

The application became abandoned for failure to timely respond to the Office action mailed February 10, 2006.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Soheil Shams**
11706 Dorothy Street, #15
Los Angeles, CA 90049

cc: **Dr. Soheil Shams**
Biodiscovery, Inc.
2121 Rosecrans Ave., Suite 3315
El Segundo, CA 90245

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/375,289	02/27/2003	Soheil Shams	30499158v1

CONFIRMATION NO. 7112

909
PILLSBURY WINTHROP SHAW PITTMAN, LLP
P.O. BOX 10500
MCLEAN, VA 22102

OC000000022928238
OC000000022928238

Date Mailed: 03/15/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/18/2006.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

Terri S. Williams

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

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Paper No. 8

Dority & Manning, P.A.
Post Office Box 1449
Greenville, SC 29602-1449

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AUG 1 1 2004

OFFICE OF PETITIONS

In re Application of :
Steven F. Hardwick :
Application No. 10/375,291 : ON PETITION
Filed: February 27, 2003 :
Attorney Docket No. IIY-20 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 15, 2004, to revive the above-identified application.

The petition is **dismissed**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." Petitioner is advised that this is not a final agency decision.

The above-identified application became abandoned for failure submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed February 27, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned after midnight May 27, 2004.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: (**1**) the required reply (unless previously filed), which may met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute, but must be the payment of the issue fee or any outstanding balance thereof in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof; (**2**) the petition fee 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**) a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)). This petition lacks item (1) above.

In the instant petition, petitioner states that the Notice of Allowance was never received. However, a review of the written record indicates no irregularity in the mailing of the Notice of Allowance and Issue Fee Due, and in the absence of any irregularity there is a strong presumption that the Notice was properly mailed to the address of record. This presumption may be overcome by a verified showing that the Notice was not in fact received. In this regard, the showing required to establish the failure to receive an Notice must consist of a statement from petitioner stating that the Notice was not received and attesting to the fact that a search of the file jacket and docket records indicates that the Notice of Allowance and Issue Fee Due was not received. A

copy of the docket record where the non-received Notice would have been entered had it been received must be attached to and referenced in petitioner's statement. See 1156 Official Gazette 53 (November 16, 1993) and MPEP Section 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Notice".

The above-identified application cannot be revived until the issue fee and publication fee are received; therefore, a courtesy copy of the Notice of Allowance and Issue Fee Due mailed February 27, 2004, is being mailed concurrently with the instant decision on petition for completion of petitioner's records.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By Hand: Customer Window
2011 South Clark Place
Crystal Plaza 1 Lobby
Room 1B03
Arlington, VA 22202

By Fax: Attn: Office of Petitions
(703) 872-9306

Telephone inquires concerning this decision should be directed to the undersigned at (703) 308-6711.

Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Enclosure: Courtesy Copy of the Notice of Allowance and Issue Fee Due mailed February 27, 2004

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DORITY & MANNING, P.A.
POST OFFICE BOX 1449
GREENVILLE SC 29602-1449

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MAR 0 1 2005

OFFICE OF PETITIONS

In re Application of	:	
Steven F. Hardwick	:	
Application No. 10/375,291	:	ON PETITION
Filed: 27 February, 2003	:	
Att'y. Docket No. IIY-20	:	

This is a decision on the petition under 1.137(b),[1] filed on 24 August, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on 28 May, 2004, for failure to timely submit the issue and publication fees as required by the

---

[1]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

Notice of Allowance and Issue Fee Due mailed on 27 February, 2004, which set a three (3) month statutory period for reply. Notice of Abandonment was mailed on 2 July, 2004. The petition filed on 15 July, 2004, was dismissed on 11 August, 2004.

The application file is being referred to Publishing Division for processing into a patent.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

DO NOT SEND TO WAREHOUSE

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 5205 Paper No.: _____

TO SPE OF : ART UNIT 3679

SUBJECT : Request for Certificate of Correction on Patent No.: 6827577

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within 7 days to:
Certificates of Correction Branch - PK 3-915
Palm location **7580** - Tel. No. 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Should the claims change?

R Johnson

Thank You For Your Assistance

Certificates of Correction Branch

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved**	All changes apply.
☐ **Approved in Part**	Specify below which changes do not apply.
☐ **Denied**	State the reasons for denial below.

Comments: The printed US patent improperly includes "claims 2-4" which were cancelled by exr's amdt. Allowed claims 5-8 were renumbered to be patent claims 2-5. However, allowed claims 6-8 were not published & allowed claim 5 was published as --claim 5--. As stated by patentees, claims 2-4 of the patent should be replaced with allowed claims 6-8 renumbered on the certificate of correction to be claims 2-4.

Daniel P Stodola — SPE

3679 — Art Unit

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FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE- 10TH FL.
NEW YORK, NY 10151

Mail Date: 04/21/2010

Applicant	: Greta De Both	: DECISION ON REQUEST FOR
Patent Number	: 7659095	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/375,332	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/27/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **749** 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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FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE- 10TH FL.
NEW YORK, NY 10151

Mail Date: 05/18/2010

Applicant : Greta De Both
Patent Number : 7659095
Issue Date : 02/09/2010
Application No: 10/375,332
Filed : 02/27/2003

: NOTICE CONCERNING IMPROPER
: CALCULATION OF PATENT TERM
: ADJUSTMENT BASED UPON USPTO
: IMPROPERLY MEASURING REDUCTION
: PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to the limit the reduction to the mail date of the response to the 1.312 amendment or other paper. Accordingly, patentee's reductions were greater than warranted.

This notice **VACATES** the previous GRANTED request for recalculation and provides patentee with a revised GRANTED recalculation.

The patent term adjustment has been determined to be **796** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this PTA calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2), and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this PTA calculation, including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

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COMMISSIONER FOR PATENTS
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FF6

Woodard, Emhardt, Moriarity,
McNett & Henry LLP
Bank One Center Tower
111monument Circle, Suite 3700
Indianapolis IN 46204-5137

MAILED

JUN 27 2003

REEXAM UNIT

In re Application of:
Larry J. Black et al.
Appl. No. 10/375,339
Filed February 27, 2003
For: METHODS FOR INHIBITING BONE LOSS USING 6-HYDROXY-2-(4-HYDROXY-PHENYL)-BENZO[B]THIEN-3-YL-4-[2-PIPERIDIN-1-YL) ETHOXYPHENYL]METHANONE HYDROCHLORIDE

DECISION GRANTING
PETITION TO
EXPEDITE PROSECUTION

Applicant's petition of June 9, 2003, under 37 CFR 1.182, to act on the reissue application without the standard two-month delay period following announcement of the reissue filing in the *Official Gazette* is before the Office of Patent Legal Administration.

The petition is granted.

DISCUSSION

This application for reissue was filed on February 27, 2003.

The announcement of reissue filing for the present application is expected to be published in the *Official Gazette* (O.G.) on July 29, 2003.

Office policy normally provides for a two-month delay in examination following the announcement of the filing of the reissue in the O.G. MPEP 1441.

Applicant has requested via this petition a waiver of the policy set forth in MPEP 1441 as to the delay of examination following the announcement of a reissue application filing in the O.G. Such waiver is requested due to current involvement of the original patent (U.S.P. 5,457,117) in litigation.

DECISION

The two-month delay period following the *Official Gazette* notice of the reissue filing is provided in order that members of the public may have an opportunity to inspect and review the reissue application and submit pertinent information to the Office in the form of a protest under 37 CFR 1.291(a) prior to the examiner's first Office action on the merits.

The granting of petitioner's request for expedited examination does not close or remove the public's opportunity to protest the reissue application. Should a protest be filed in this application within two months from the date of the O.G. announcement, the examiner is instructed to proceed according to the provisions of 37 CFR 1.291, as well as MPEP §§ 1901.04 and 1901.06.

In the event an early determination of allowable subject matter is made by the examiner and made known to applicant, the application will be retained in the Technology Center pending expiration of the two month delay period (after publication in the O.G.), **prior to the mailing of a formal Notice of Allowance.**

CONCLUSION

The petition is granted.

The application is being forwarded to Technology Center 1600 for immediate examination as soon as practicable.

Any further questions regarding the matter of this decision should be directed to Joseph Narcavage, Office of Patent Legal Administration, at (703) 305-1795.

Kenneth M. Schor
Senior Legal Advisor
Office of Patent Legal Administration

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:

DATE :

TO SPE OF : ART UNIT

SUBJECT : Request for Certificate of Correction on Patent No.:

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance — **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriated box.

☒ **Approved** — EDWARD J. WEBMAN PRIMARY EXAMINER GROUP 1500 — All changes apply.

☐ **Approved in Part** — Specify below which changes **do not** apply.

☐ **Denied** — State the reasons for denial below.

Comments:

JOHANN RICHTER SUPERVISORY PATENT EXAMINER GROUP 1600

1616

SPE: Art Unit

OFFICE IAP9
MAY 02 2006
PATENT & TRADEMARK OFFICE

10/375339 C 07C

WOODARD, EMHARDT, MORIARTY, MCNETT & HENRY LLP

PATENT AND TRADEMARK ATTORNEYS
FOUNDED 1879
111 MONUMENT CIRCLE, SUITE 3700
INDIANAPOLIS, INDIANA 46204-5137
(317) 634-3456
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KRISTOPHER T. LYNCH
ADAM W. BORGMAN
WILLIAM A. MCKENNA*
MARK T. STEPHENSON*
JAMES R. BLAUFUSS
*NOT ADMITTED TO PATENT BAR

C. DAVID EMHARDT
JOSEPH A. NAUGHTON
EDWARD E. SOWERS
GARY M. GRON
JOHN R. TROLL*
OF COUNSEL

HAROLD R. WOODARD
(1911-2003)

April 25, 2006

Certificate
MAY 04 2006
of Correction

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

ATTN: Decision and Certificate of Correction
Branch of the Patent Issue Division

Re: Request for Certificate of Correction of Patent (37 CFR § 1.322)
U.S. Patent No. RE38,968
Date: February 7, 2006
Title: Methods for inhibiting bone loss using 6-hydroxy-2-(4-hydroxyphenyl)-benzo[b]thien-3-yl-4-[2-(piperidin-1-yl) ethoxyphenylimethanone hydrochloride
Inventor(s): Larry J. Black
Our Ref. No.: 7040-367

Dear Sir:

A Certificate of Correction of the above-identified patent is respectfully requested to correct certain errors of a clerical or typographical nature or of minor character which appear in the patent as issued. During the prosecution of the above application, the inventor Cullinan was removed; however, the patent has been printed with Cullinan still listed.

The exact locations where the errors occur and the necessary corrections are indicated on the attached form PTO/SB/44 (10-96), which form as prepared is suitable for printing. It is believed that the errors as set out were made on the part of the Patent and Trademark Office. Therefore, we are not enclosing a remittance fee. However, if any fees are required in order to complete the Certificate of Correction, please charge them to Deposit Account No. 23-3030.

Please send the Certificate to Woodard, Emhardt, Moriarty, McNett & Henry, LLP, Chase Tower, 111 Monument Circle, Suite 3700, Indianapolis, Indiana 46204.

Sincerely yours,

Thomas Q. Henry

Thomas Q. Henry, Reg. No. 28,309
Woodard, Emhardt, Moriarty, McNett & Henry LLP

Enclosure

MAY 5 2006

WEMMH #113785 (7/2005)

WEMMH PTO/SB/44 (07/05)
Approved for use through 04/30/2007. OMB 0651-0033
Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : RE. 38,968

APPLICATION NO.: 10/375,339

ISSUE DATE : February 7, 2006

INVENTOR(S) : Larry J. Black

It is certified that error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the face of the Patent, the list of Inventors should read as follows:

Inventor: Larry J. Black, Indianapolis, IN (US)

MAILING ADDRESS OF SENDER:
Woodard, Emhardt, Moriarty, McNett & Henry LLP
Attention: Thomas Q. Henry, Registration No. 28,309
111 Monument Circle, Suite 3700
Indianapolis, IN 46204-5137

5 2006

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Woodard, Emhardt, Moriarity,
McNett & Henry LLP
Bank One Center Tower
111monument Circle, Suite 3700
Indianapolis IN 46204-5137

MAILED

JUN 2 7 2003

REEXAM UNIT

In re Application of:
Larry J. Black et al.
Appl. No. 10/375,341
Filed February 27, 2003
For: METHODS FOR INHIBITING BONE LOSS

DECISION GRANTING PETITION TO EXPEDITE PROSECUTION

Applicant's petition of June 9, 2003, under 37 CFR 1.182, to act on the reissue application without the standard two-month delay period following announcement of the reissue filing in the *Official Gazette* is before the Office of Patent Legal Administration.

The petition is granted.

DISCUSSION

This application for reissue was filed on February 27, 2003.

The announcement of reissue filing for the present application was published in the *Official Gazette* (O.G.) on May 20, 2003.

Office policy normally provides for a two-month delay in examination following the announcement of the filing of the reissue in the O.G. MPEP 1441.

Applicant has requested via this petition a waiver of the policy set forth in MPEP 1441 as to the delay of examination following the announcement of a reissue application filing in the O.G. Such waiver is requested due to current involvement of the original patent (U.S.P. 5,393,763c) in litigation.

DECISION

The two-month delay period following the *Official Gazette* notice of the reissue filing is provided in order that members of the public may have an opportunity to inspect and review the reissue application and submit pertinent information to the Office in the form of a protest under 37 CFR 1.291(a) prior to the examiner's first Office action on the merits.

The granting of petitioner's request for expedited examination does not close or remove the public's opportunity to protest the

reissue application. Should a protest be filed in this application within two months from the date of the O.G. announcement, the examiner is instructed to proceed according to the provisions of 37 CFR 1.291, as well as MPEP §§ 1901.04 and 1901.06.

In the event an early determination of allowable subject matter is made by the examiner and made known to applicant, the application will be retained in the Technology Center pending expiration of the two month delay period (after publication in the O.G.), **prior to the mailing of a formal Notice of Allowance.**

CONCLUSION

The petition is granted.

The application is being forwarded to Technology Center 1600 for immediate examination as soon as practicable.

Any further questions regarding the matter of this decision should be directed to Joseph Narcavage, Office of Patent Legal Administration, at (703) 305-1795.

Kenneth M. Schor
Senior Legal Advisor
Office of Patent Legal Administration

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/22/09

TO SPE OF : ART UNIT 1617

SUBJECT : Request for Certificate of Correction for Appl. No.: 10375341 Patent No.: RE39049 E

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

You can fax the Directors/SPE response to 571-270-9990

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: _____

_____

_____

_____

_____ _____
SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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LANXESS CORPORATION
111 RIDC PARK WEST DRIVE
PITTSBURGH, PA 15275-1112

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MAR 1 0 2006

OFFICE OF PETITIONS

In re Application of :
Boris Bosch et al :
Application No. 10/375,344 : ON PETITION
Filed: February 22, 2003 :
Attorney Docket No. CH-7713/LEA 35,869 :

This is a decision on the petition under 37 CFR 1.313(c), filed March 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 June 6, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

The correspondence filed March 8, 2006 is not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Kurt G. Briscoe appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. However, if Mr. Briscoe 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. Briscoe, the petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

Telephone inquiries should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 1626 for processing of the request for continued examination under 37 CFR 1.114.

Wan Laymon
Petitions Examiner
Office of Petitions

cc: NORRIS MCLAUGHLIN & MARCUS
875 THIRD AVENUE - 18TH FLOOR
NEW YORK, NY 10022

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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SHEMWELL MAHAMEDI LLP
4880 STEVENS CREEK BLVD, SUITE 201
SAN JOSE, CA 95129

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SEP 12 2007

OFFICE OF PETITIONS

In re Application of :
GOKTURK, et al. :
Application No. 10/375,345 : DECISION ON PETITION
Filed: February 26, 2003 : TO WITHDRAW
Attorney Docket No. **60045-0034** : 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 May 7, 2007.

The request is **NOT APPROVED.**

A review of the file record indicates that Van Mahamedi of **SHEMWELL MAHAMEDI LLP** does not have power of attorney in this patent application nor is there any statement or evidence of record of employment in or otherwise being engaged in the proceedings in this patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

All future communications from the Office will continue to be directed to the below-listed address until otherwise properly notified by the applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **MICHAEL A. KAUFMAN, ESQ.**
CANESTA INC.
440 NO WOLFE ROAD, SUITE 101
SUNNYVALE, CA 94085

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

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OFFICE OF PETITIONS

In re Patent No. 6,819,985
Issue Date: November 16, 2004
Application No. 10/375,347
Filed: February 28, 2003
Attorney Docket No. 023971-0214

ON PETITION

This is a decision on the paper filed May 9, 2008, which is being treated as a petition under 37 CFR 3.81(b) to correct the name of the assignee on the front page of the above-identified patent by way of a certificate of correction.

The petition is **DISMISSED**.

Petitioner requests issuance of a certificate of correction in the name of "NISSAN MOTOR CO., LTD., YOKOHAMA (JP) and Renault S.A.S. BOULOGNE-BILLANCOURT (FR)."

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 **before issuance of the patent**, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter [emphasis added]. *See also* MPEP 1481.01.

U.S. Patent and Trademark Office assignment records disclose that an assignment to "NISSAN MOTOR CO., LTD. " was recorded on February 28, 2003 and, an assignment was recorded on May 4, 2004 to "RENAULT S.A.S. SOCIETE PAR ACTIONS SIMPLIFIEE.". Accordingly, issuance of a certificate of correction would not be proper for the second assignee in the name of

"Renault S.A.S." when the assignment was recorded as "RENAULT S.A.S. COCIETE PAR ACTIONS SIMPLIFIEE" on April 29, 2004

Telephone inquiries concerning this decision on petition should be directed to the undersigned at (571) 272-3208.

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

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JAN 16 2009

OFFICE OF PETITIONS

In re Patent No. 6,819,985	:	
Issue Date: November 16, 2004	:	
Application No. 10/375,347	:	ON PETITION
Filed: February 28, 2003	:	
Attorney Docket No. 023971-0214	:	

This is a decision on the petition filed December 8, 2008, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3208. 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.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAILED

MAR 15 2005

Director's Office
Group 3700

In re Application of
Yasumi Sago *et al*
Application No. 10/375,349
Filed: February 28,2003
Attorney Docket No. 033230-007

DECISION ON PETITION

This is a decision on the petition filed by facsimile transmission on August 21, 2004 by which petitioners request that the period for filing a reply to the Office action dated March 2, 2004 be reset, and that any petition fees paid be refunded. The petition is being considered under 37 CFR 1.181, and no fee is required for the petition. Office records show that petitioners have in fact filed a reply to the Office letter in question, together with the fee for a one month extension of time. As discussed below, the extension fee will be refunded.

The petition is granted.

It appears that petitioners have requested that the period for filing a reply to the Office letter in question be reset because the Office letter in question was never received. On August 27, 2004, petitioners discovered that the Office action in question existed by forming a routine status check using Private PAIR. Petitioners have made a showing of the sort set forth in MPEP § 711.03(c) to establish that they never in fact received the Office letter dated March 2, 2004 in the mail. That showing is acceptable, and petitioners are entitled to have the reply period reset.

Resetting of the reply period would normally require either re-mailing of the Office letter in question if petitioners had never received the letter and resetting of the period in which to file a reply thereto to run from the re-mailing date. In this instance, petitioners have obtained a copy of the Office letter on August 27, 2004, and the practice would be to reset the period for filing a reply thereto to run from that date. See MPEP § 710.06 and not the practice therein.

Accordingly, the period for filing a reply to the Office letter dated March 2, 2004 is reset to run THREE MONTHS from August 27, 2004, the date upon which petitioners obtained a copy of the Office letter. The reply filed on December 7, 2004 is considered to have been timely filed when taken together with the constructive petition for a one month extension of time that is implied by the filing of the reply and the authorization to charge all necessary fees that accompanied the filing of the reply. See 37 CFR 1.136(a)(3). It is noted that the correct large entity extension of time fee of $110.00 (the fees were increase on December 8, 2004) has already been charged.

The application is being forwarded to the Head Supervisory Patent Examiner to have the PALM status date that resulted from the mailing of the March 2, 2004 Office letter changed to August 27, 2004, and to then have the reply and extension of time filed on December 7, 2004 entered. Again, note that the extension fee has already been charged.

PETITION GRANTED.

Richard A. Bertsch, Director
Technology Center 3700

Burns, Doane, Swecker & Mathis, L.L.P.
P.O. Box 1404
Alexandria, VA 22313-1404

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 M. HEASLEY
1614 COVER STREET
IOWA CITY, IA 52240

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JUL 29 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of :
John Heasley :
Application No. 10/375,372 :
Filed: February 27, 2003 :
Attorney Docket No. 6656320/23050 :

This is a decision on the petition under 37 CFR 1.137(a), filed July 13, 2005, to revive the above-identified application.

The petition is **dismissed**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)."

This application became abandoned for failure to timely reply to the Office action mailed December 8, 2004. Accordingly, this application became abandoned on March 9, 2005. A Notice of Abandonment was mailed on July 1, 2005.

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by:

(1) The required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof;

(2) The petition fee as set forth in § 1.17(l);

(3) A showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and

(4) Any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

This petition lacks item (2).

The required $250.00 petition fee (37 CFR 1.17(l), effective December 8, 2004) has not been submitted. Petitioner has submitted $55.00, however an additional $195.00 must be submitted before the petition can be reviewed on the merits. As such, the petition must be dismissed.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
Box 1450
Alexandria, VA 22313

By FAX: (703) 872-9306
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries should be directed to the undersigned at (571) 272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions/Patent
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JOHN M. HEASLEY
1614 DOVER STREET
IOWA CITY, IA 52240

COPY MAILED

SEP 12 2005

OFFICE OF PETITIONS

In re Application of :
John Heasley :
Application No. 10/375,372 : ON PETITION
Filed: February 27, 2003 :
Title: GENERAL FIELD ISOLATION :
RUBBER DAMS WITHOUT OPERATIVE :
INSERTS WHICH ISOLATE THE DENTAL :
ALVEOLAR ARCH FOR DENTAL :
TREATMENT :

This is a decision on the renewed petition under 37 CFR 1.137(a), filed August 15, 2005, to revive the above-identified application.

The petition is **dismissed**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)."

This application became abandoned for failure to timely reply to the Office action mailed December 8, 2004. Accordingly, this application became abandoned on March 9, 2005. A Notice of Abandonment was mailed on July 1, 2005.

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by:

(1) The required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof;

(2) The petition fee as set forth in § 1.17(l);

(3) A showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and

(4) Any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

This petition lacks item (3), above.

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.

In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

Petitioner states, " [The Office action] was sent to my previous patent attorney but not forwarded to me until recently."

A review of the application file indicates the Office action mailed December 8, 2004 was correctly mailed to the address of record at the time of the mailing. A delay caused by the failure on the part of petitioner, or petitioner's representative, to provide the Patent and Trademark Office with a current correspondence address does not constitute an unavoidable delay. See Ray v. Lehman, 55 F.3d 606, 34 USPQ2d 1786 (Fed. Cir. 1995).

Furthermore, please note, a delay resulting from the lack of knowledge or improper application of the patent statute, rules of practice or the MPEP does not constitute an "unavoidable" delay. See Haines v. Quigg, 673 F. Supp. 314, 317, 5 USPQ2d 1130, 1132 (N.D. Ind. 1987), Vincent v. Mossinghoff, 230 USPQ 621, 624 (D.D.C. 1985); Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (1891).

Accordingly, the showing of record is not sufficient to establish to the satisfaction of the Commissioner that the delay was unavoidable within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a).

Petitioner may wish to consider filing a renewed petition under amended 37 C.F.R. § 1.137**(b)**. 37 C.F.R. § 1.137(b) now provides that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 C.F.R. § 1.137(b). A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

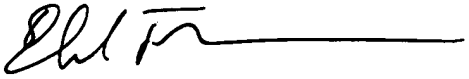
> (1) The required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof;
>
> (2) The petition fee as set forth in § 1.17(m), $750.00 for a small entity;
>
> (3) A **statement** that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and
>
> (4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to 37 C.F.R. § 1.137(c).

The Manual of Patent Examining Procedure, Section 711.03(c), provides a general discussion of the procedures for filing a petition to revive an abandoned application. A copy of the section is forwarded herewith for your information.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop Petition Commissioner for Patents Box 1450 Alexandria, VA 22313
By FAX:	(703) 872-9306 Attn: Office of Petitions
By hand:	Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314

Telephone inquiries should be directed to the undersigned at (571) 272-3228.



Edward J. Tannouse
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Attachment:
MPEP 711.03(c)

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

QUARLES & BRADY
411 E. WISCONSIN AVENUE
SUITE 2040
MILWAUKEE, WI 53202-4497

COPY MAILED

DEC 0 1 2003

OFFICE OF PETITIONS

In re Application of :
Miguel E. Armacanqui et al :
Application No. 10/375,381 : DECISION GRANTING STATUS
Filed: February 27, 2003 : UNDER 37 CFR 1.47(A)
For: ALKALINE CELL WITH PERFORMANCE :
ENHANCING ADDITIVES :

This is in response to the petition under 37 CFR 1.47(a), filed October 7, 2003.

The petition is granted.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

Telephone inquiries regarding this decision should be directed to Petitions Examiner Wan Laymon at (703) 306-5685.

This application is being forwarded to Technology Center AU 3652 for examination in due course.

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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)
6951640	2005-10-04	10375454	2003-02-27	BSA 02-15

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	/Christine L. Brakel/	Date (YYYY-MM-DD)	2009-11-19
Name	Christine L. Brakel	Registration Number	45772

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6951640
Issue Date: October 4,2005
Application No. 10375454
Filed: February 27,2003
Attorney Docket No. BSA 02-15

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed November 19,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of November 19,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SUGHRUE MION PLLC
2100 PENNSYLVANIA AVENUE NW
SUITE 800
WASHINGTON, DC 20037

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SEP 27 2006

OFFICE OF PETITIONS

In re Application of :
Bruce Alan Bowling et al : DECISION ON PETITION
Application No. 10/375,458 : UNDER 37 CFR 1.137(b)
Filed: February 27, 2003 :
Attorney Docket No. A9147 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 27, 2006, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to timely reply to the Notice of Non-Compliant Amendment, mailed July 8, 2005, which set a one month extendable period for reply. 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 August 9, 2005.

The petition satisfies the requirements for a grantable petition in that the reply, the petition fee of $750, and the required statement of unintentional delay have been submitted. Accordingly, the reply to the Notice of Non-Compliant Amendment mailed July 8, 2005 is accepted as having been unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37

CFR 1.137(b) was unintentional, petitioner must notify the Office.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 3747 for appropriate action in the normal course of business on the reply received with the petition of April 27, 2006.

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

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE NW
SUITE 800
WASHINGTON, DC 20037

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MAY 30 2007

OFFICE OF PETITIONS

In re Application of	:	
Bruce Alan Bowling et al	:	
Application No. 10/375,458	:	DECISION ON PETITION
Filed: February 27, 2003	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. A9147	:	

This is a decision on the petition under 37 CFR 1.78(a)(6), filed March 12, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of priority to prior-filed provisional Application No. 60/362,475, filed March 7, 2002, as set forth in the concurrently filed amendment.

The petition is **DISMISSED.**

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

This pending nonprovisional application was filed on February 27, 2003, within twelve months of the filing date of the prior-filed provisional application, Application No. 60/362,475, which was filed on March 7, 2002, and for which priority is claimed. A reference to the prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title.

It is noted that the issue fee in this application was paid on February 23, 2007. Effective May 29, 2000, any amendment filed after payment of the issue fee must be accompanied by a request to

withdraw the application from issue under 37 CFR 1.313(c). If the petition is under the provisions of 37 CFR 1.313(c)(2), the petition must be accompanied by a request for continued examination under 37 CFR 1.114. The submission requirement may be met by reference to a prior-filed amendment.

Accordingly, if reconsideration of this decision is desired, petitioner must submit (1) a petition to withdraw from issue under 37 CFR 1.313(c) (if under 37 CFR 1.313(c)(2), a request for continued examination under 37 CFR 1.114 is required), and (2) a renewed petition under 37 CFR 1.78(a)(6) (no additional fee is required for the renewed petition).

Petitioner is advised that a petition will not be effective to withdraw the application from issues unless it is actually received and granted by the appropriate officials before the date of issue. *Note* 37 CFR 1.313(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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE NW
SUITE 800
WASHINGTON, DC 20037

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JUN 26 2007

OFFICE OF PETITIONS

In re Application of :
Bruce Alan Bowling et al :
Application No. 10/375,458 : DECISION ON PETITION
Filed: February 27, 2003 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. A9147 :

This is a decision on the renewed petition under 37 CFR 1.78(a)(6), filed June 19, 2007, 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, this 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 benefit of 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 the undersigned at (571) 272-3218. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

The application is being forwarded to Technology Center AU 3747 for consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to the prior-filed provisional application.

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/375,458	02/27/2003	3747	675	A9147	6	1

CONFIRMATION NO. 6817

CORRECTED FILING RECEIPT

OC000000024521460

23373
SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

Date Mailed: 06/25/2007

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Bruce Alan Bowling, Havre de Grace, MD;
Albert Carlos Grippo, Virginia Beach, VA;

Power of Attorney: The patent practitioners associated with Customer Number **23373**.

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/362,475 03/07/2002

Foreign Applications

If Required, Foreign Filing License Granted: 04/23/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/375,458

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

SIMPLE ENGINE FUEL CONTROLLER

Preliminary Class

701

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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Alexandria, VA 22313-1450
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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

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JUN 26 2007

OFFICE OF PETITIONS

In re Application of	:	
BOWLING, et al.	:	
Application No. 10/375,458	:	DECISION GRANTING PETITION
Filed: February 27, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **A9147**	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed June 19, 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 February 23, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Monica A. Graves at (571) 272-7253.

This matter will be retained in the Office of Petitions for consideration of the renewed petition under 37 CFR 1.78(a)(6).

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.*

UNITED STATES PATENT AND TRADEMARK OFFICE

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Joseph A. Powers
Duane Morris LLP
30 South 17th Street
Philadelphia, PA 19103-7936

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AUG 0 3 2006

OFFICE OF PETITIONS

In re Application of :
T. Thaddeus Marshall :
Application No. 10/375,460 : DECISION ON PETITION
Filed: February 27, 2003 : TO WITHDRAW
Attorney Docket No. D6163-00040 : 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 23, 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 Joseph A. Powers on behalf of all attorneys of record.

All attorneys/agents have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence address of record has been accepted. All future communications from the Office will be directed to the first copied address below until otherwise properly notified by the applicant.

There is no outstanding Office action at this time.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

David Bucci
Petitions Examiner
Office of Petitions

cc: T. Thaddeus Marshall, Esq.
1241 Oaks Boulevard
Winter Park, FL 32789

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OFFICE OF PETITIONS

In re Application of :
Steven R. Slotto, et al. :
Application No. 10/375,462 : ON PETITION
Filed: February 27, 2003 :
Attorney Docket No. D/A2499 :

This is a decision on the petition, filed June 18, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on April 21, 2004, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (703) 305-9220.

The application is being referred to Technology Center AU 2861 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
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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JUL -9 2004

In re Application of	:	
Edward W. Van Romer	:	
Serial No. 10/375,463	:	DECISION ON PETITION
Filed: February 27, 2003	:	TO MAKE SPECIAL
For: PORTABLE CONTAINMENT	:	

Applicant's petition, filed April 17, 2003, requests that this application be rendered special for examination in that applicant is over sixty-five (65) years of age.

The petition has been reviewed and is found to be in compliance with the requirements for special status as set forth in Section 708.02(IV) of the Manual of Patent Examining Procedure (MPEP).

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

Henry S. Jaudon
P.O. Box 10827
Greenville, SC 29603

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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JOHN D. CARPENTER
CHRISTIE, PARKER & HALE L.L.P.
350 W. COLORADO BOULEVARD
SUITE 500
PASADENA CA 91105

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JUL 02 2010

OFFICE OF PETITIONS

In re Application of :
Xiao Ping Zhou, et al. :
Patent No. 7,148,390 : NOTICE
Application No. 10/375,464 :
Filed: February 27, 2003 :
Attorney Docket No. 300100-1059

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

There is no indication that the petition is signed by a registered patent attorney or patent agent of record. However, in accordance with 37 CFR 1.34, the signature of Larissa Piccardo appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. If, Larissa Piccardo desires to receive correspondence regarding this file, the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is being mailed to Larissa Piccardo, the petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

Inquiries related to this communication should be directed to the undersigned at (571) 272-2991.

Terri Johnson
Petitions Examiner
Office of Petitions

cc: **BAKER BOTTS L.L.P.**
One Shell Plaza
910 Louisiana
Houston, TX 77002

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Wilmer Cutler Pickering Hale and Dorr LLP
60 State Street
Boston, MA 02109

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JAN 11 2005

OFFICE OF PETITIONS

In re Application of :
Matthew Sweetland, et al. :
Application No. 10/375,481 : ON PETITION
Filed: February 27, 2003 :
Attorney Docket No. 112675-125 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 20, 2004, to revive the above-identified application.

The petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-3475.

The application file is being referred to Technology Center 2800.

Marianne E. Jenkins
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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APR 18 2007

OFFICE OF PETITIONS

GAUTHIER & CONNORS, LLP
225 FRANKLIN STREET
SUITE 2300
BOSTON MA 02110

In re Application of :
Strickland :
Application No. 10/375,503 : ON PETITION
Filed: February 27, 2003 :
Attorney Docket No. 6095 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 8, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

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) .

The above-identified application fails to comply with requirement (1) set forth above. The amendment submitted with the instant petition has been reviewed and the Examiner has determined that the reply fails to place the application in condition for allowance. See enclosed.

Any reviewed petition must be accompanied by the required reply. The required reply may be an amendment that prima facie places the application in condition for allowance, a Notice of Appeal

(and required fee), a request for continued examination (and required submission and fee), or a continuation application.

Further correspondence with respect to this matter should be addressed as follows:

By Mail:
Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand:
U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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GAUTHIER & CONNORS, LLP
225 FRANKLIN STREET
SUITE 2300
BOSTON MA 02110

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AUG 27 2007

OFFICE OF PETITIONS

In re Application of :
Strickland : DECISION ON PETITION
Application No. 10/375,503 :
Filed: February 27, 2003 :
For: 6095 :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed June 18, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned November 22, 2005 for failure to timely submit a proper reply after having submitted a Notice of Appeal on September 21, 2005. Notice of Abandonment was mailed April 21, 2006.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(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(b) 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 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 final Office action is accepted as having been unintentionally delayed.

This application file is being forwarded to Technology Center 3700 for processing of the request for continued examination.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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PAUL E. HODGES
PITTS & BRITTIAN P.C.
P.O. BOX 51295
KNOXVILLE, TN 37950

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MAR 0 3 2004

OFFICE OF PETITIONS

In re Application of :
Harold F. Beal :
Application No. 10/375,518 : NOTICE
Filed: February 26, 2003 :
Attorney Docket No. 28071.00

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 3641.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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P O BOX 51295
KNOXVILLE TN 37950-1295

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JAN 13 2006

OFFICE OF PETITIONS

In re Application of :
Harold F. Beal :
Application No. 10/375,518 : ON PETITION
Filed: February 26, 2003 :
Attorney Docket No.: 28071.00 :

This is a decision on the petition filed November 16, 2005, under 37 CFR 1.137(b), to revive the above identified application.

The petition is **GRANTED**.

The application was held abandoned on May 17, 2005, for failure to timely submit the issue fee, as required by the Notice of Allowance and Issue Fee Due mailed on February 14, 2005. A three (3) month period for reply was set. Accordingly, a Notice of Abandonment was mailed on October 25, 2005.

Petitioner asserts that the issue fee transmittal, a check in the amount of $1700.00, as well as an authorization to charge their deposit account for the issue fee and publication fee, included on the issue fee transmittal, were filed May 16, 2005.

In support, petitioner has submitted, *inter alia*, a copy of the issue fee transmittal form with the certificate of mail dated May 16, 2005, a copy of the check submitted, though not canceled, and a post card receipt dated May 16, 2005.

A review of the file does not reveal that the check alleged to have been included with the issue fee transmittal was received or applied to the finance records for this application. Neither does the evidence presented show that the check was ever canceled. Further, however, as is argued by petitioner, the issue fee transmittal did in fact authorize that deposit account no. 16-1910 be charged in the amount of $1400 for the issue fee and $300 for the publication fee. Unfortunately, it appears that there were insufficient funds in the account to charge $1700.

Petitioner further argues that a payment was made to replenish deposit account no. 16-1910 however, our review of the finance records, and the evidence presented, reveals that payment was not made of record prior to the time the attempted charges to the deposit account were made for the issue fee and publication fee. Thus, the application appropriately became abandoned.

Petitioner also submits a copy of the Express Mail label as proof that the check in the amount of $1700.00 was included with the issue fee transmittal. The Express Mail label however is not persuasive evidence of the receipt of the package mailed May 16, 2005. Where there is a dispute as to the *contents* of correspondence submitted to the Office an applicant may not rely upon the provisions of 37 CFR 1.10 to establish what documents and or fees were filed in the Office with such correspondence. Reliance on an express mail label is only appropriate where the correspondence was sent by Express Mail but nothing was received by the Office.

Finally, the postcard receipt is not date stamped by the USPTO and thus cannot serve as prima facie evidence that the check allegedly included with the issue fee transmittal was in fact included. See MPEP 503.

In view thereof, the petition fee in the amount of $1500.00 for the instant petition under 37 CFR 1.137(b), the publication fee and the issue fee have all been properly charged to deposit account no. 16-1910, as per the authorization found in the petition.

All other requirements of 37 CFR 1.137(b) having been met, this matter will be referred to the Publishing Division to be processed into a patent.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Michael A. O'Neil, P.C.
8150 North Central Expressway
Suite 1150
Dallas, TX 75206

MAILED

MAY 24 2010

OFFICE OF PETITIONS

In re Application of :
Linda A. Carter :
Patent No. 6,896,667 : DECISION ON PETITION
Application No. 10/375,523
Filed: February 27, 2003 : TO WITHDRAW
Attorney Docket No. 600050/1004 : 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 6, 2010.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. 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 Kelly J. Kubasta on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Linda A. Carter at the address indicated below.

The patent has expired due to nonpayment of the three and one-half year maintenance fee.

Telephone inquiries concerning this decision should be directed to Terri Johnson at 571-272-2991.

Terri Johnson
Petitions Examiner
Office of Petitions

cc: **Linda A. Carter**
3630 West Country Club Drive
Irving, TX 75038

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
10/375,523	02/27/2003	Linda A. Carter	600050/1004

CONFIRMATION NO. 7315

POWER OF ATTORNEY NOTICE

38406
Michael A. O'Neil. P.C.
8150 North Central Expressway
Suite 1150
DALLAS, TX 75206

Date Mailed: 05/24/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/06/2010.

- 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.

/tsjohnson/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

SPE RESPONSE FOR CERTIFICATE OF CORRECTION: 10/375595

Paper No.: —

DATE : 12/1/05

TO SPE OF : ART UNIT 1775

SUBJECT : Request for Certificate of Correction on Patent No.: 6857558 B2

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within 7 days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Virginia Tolbert

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 ext. 113

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments:

OK

JOHN J. ZIMMERMAN
PRIMARY EXAMINER

JENNIFER C. MCNEIL
SUPERVISORY PATENT EXAMINER

SPE 7/19/06

1775
Art Unit

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APR 19 2007

OFFICE OF PETITIONS

In re Application of :
Donald W. Taylor et al :
Application No. 10/375,555 : ON PETITION
Filed: February 26, 2003 :
Attorney Docket No. DE007DT-2 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 26, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed May 2, 2006, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on August 3, 2006.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 1711 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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ALTERA LAW GROUP
6500 CITY WEST PARKWAY
SUITE 100
MINNEAPOLIS, MN 55344-7704

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APR 30 2004

OFFICE OF PETITIONS

In re Application of :
Eungjoon Park :
Application No. 10/375,556 : NOTICE
Filed: February 25, 2003 :
Attorney Docket No. 11526US.00 :

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©) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED.**

Inquiries related to this communication should be directed to the Office of Petitions Staff at (703) 305-9285.

This file is being referred to Technology Center AU 2818.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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ROBERT V. VICKERS
FAY, SHARPE, FAGAN, MINNICH & McKEE
Seventh Floor
1100 Superior Avenue
Cleveland OH 44114-2579

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SEP 18 2007

OFFICE OF PETITIONS

In re Application of :
Rock et al. :
Application No. 10/375,568 :
Filed: 02/26/2003 :
Attorney Docket No. SMEE 2 01606-5 :

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed March 30, 2007, to revive the above-identified application.

The petition is **GRANTED**.

On June 14, 2006, the Office mailed a Notice of Non-Compliant Amendment, which set an extendable period of one month or thirty days, whichever was longer, to reply. On July 15, 2006, the application became abandoned.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee; and (3) an adequate statement of unintentional delay.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

The matter is being referred to Technology Center Art Unit 1761 for review of the reply submitted on January 11, 2007.

Telephone inquiries should be directed to the undersigned at (571) 272-3211.

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Cc: Kristin J. Frost
800 Superior Avenue, Suite 1400
Cleveland OH 44114

UNITED STATES PATENT AND TRADEMARK OFFICE

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CLARIANT CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
4000 MONROE ROAD
CHARLOTTE NC 28205

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AUG 0 2 2004

OFFICE OF PETITIONS

In re Application of :
Joachim Weber et al :
Application No. 10/375,573 : ON PETITION
Filed: February 27, 2003 :
Attorney Docket No. 1999DE133/C1 :

This is a decision on the petition, filed July 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 March 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 should be directed to the undersigned at (703) 305-8859.

The examiner of Technology Center AU 1626 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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Paper No. _____

Date : August 2, 2004

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of **Application No. 10/375,573**

Applicant(s) : Joachim Weber et al
Application No. : 10/375,573
Filed : February 27, 2003

The above-identified application has been assigned Patent No. 6,777,558 and an issue date of August 17, 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 August 17, 2004:

"All reference to Patent No. 6,777,558 to Joachim Weber et al of Germany for PIGMENT DISPERSANTS BASED ON DIKETOPYRROLOPYRROLE COMPOUNDS AND PIGMENT PREPARATIONS appearing in the Official Gazette of August 17, 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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/375,589	02/27/2003	John V. Nguyen	5681-12201	6128

58467 7590 11/02/2009

MHKKG/SUN
P.O. BOX 398
AUSTIN, TX 78767

EXAMINER	
BURGESS, BARBARA N	

ART UNIT	PAPER NUMBER
2457	

NOTIFICATION DATE	DELIVERY MODE
11/02/2009	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patent_docketing@intprop.com
ptomhkkg@gmail.com

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OCT 30 2009

DIRECTOR OFFICE
TECHNOLOGY CENTER 2400

Robert C. Kowert
MHKKG/SUN
P.O. Box 398
AUSTING TX 78767

In re Application of: NGUYEN, John V.
Application No. **10/375,589**
Filed: February 28, 2003
Atty Docket No.: 5681-12201
Title of the Invention:
SYSTEM AND METHOD FOR DESIGNING, DEVELOPING AND IMPLEMENTING INTERNET SERVICE PROVIDER ARCHITECTURES

DECISION ON PETITION TO WITHDRAW RESTRICTION REQUIREMENT UNDER 37 C.F.R. § 1.144

This is a decision on the Petition under 37 C.F.R. §1.144 filed October 13, 2009 regarding a restriction requirement made in office action mailed October 1, 2008.

This petition is **GRANTED**.

RULES AND REGULATIONS

MPEP 806.05(d): Subcombinations Usable Together [R-5]

Two or more claimed subcombinations, disclosed as usable together in a single combination, and which can be shown to be separately usable, are usually restrictable when the subcombinations do not overlap in scope and are not obvious variants.

DECISION

The claims as filed 2/27/03 has been reviewed and found not restrictable in accordance with the rules and regulations above mentioned.

For the above-mentioned reasons, the petition is **Granted**.

The restriction requirement is hereby **WITHDRAWN**.

The application will be forwarded to the examiner for consideration on the merits of all pending claims.

Any inquiry regarding this decision should be directed the undersigned whose telephone number is (571) 272-3902. If attempts to reach the undersigned by telephone are unsuccessful, Kim Huynh, Quality Assurance Specialist, can be reached at (571) 272-4147.

/bp/

/Beatriz Prieto/

Beatriz Prieto, Quality Assurance Specialist
Technology Center 2400
Network, Multiplexing, Cable and Security

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DCM

JUL 2 0 2004

In re Application of	:	
Billy Carr Baird	:	
Serial Number: 10/375,601	:	PETITION UNDER
Filed: February 27, 2003	:	M.P.E.P.708.02 V
For: COKE OVEN DOOR	:	

This is in response to the petition filed May 7, 2004, 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.**

Marian C. Knode, Special Programs Examiner
Technology Center 1700
Chemical and Materials Engineering

WOOD, HERRON & EVANS, LLP
2700 CAREW TOWER
441 VINE STREET
CINCINNATI OH 45202

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 03-16-06

TO SPE OF : ART UNIT 1764

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/375601** Patent No.: **6916406**

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Certificates of Correction Branch

703-308-9390 ext. _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

SPE **Art Unit** 1797

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JJGJr: 11-03

Paper No: 5

MOSER, PATTERSON
& SHERIDAN, L.L.P.
3040 POST OAK BLVD/STE. 1500
HOUSTON TX 77056-6582

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NOV 2 5 2003

OFFICE OF PETITIONS

In re Application of :
Vold :
Application No. 10/375,614 : DECISION ON PETITION
Filed: 27 February, 2003 :
Attorney Docket No.: WEAT/0306 :

This is a decision on the petition filed on 1 April, 2003 (but the file was not received into the Office of Petitions until this writing), to correct the Express Mail filing date under 37 C.F.R. §1.10, and seeking for the above-identified application a filing date of 27 February, 2003, instead of the presently accorded filing date of 28 February, 2003.

The Office regrets the delay in addressing this matter.

The petition is **GRANTED**, and the petition fee is waived.

BACKGROUND AND ANALYSIS

The record reflects that:

- the instant application was received on 28 February, 2003, and given a filing date of 28 February; and

- Petitioner William B. Patterson (Reg. No. 34,102) submits his petition and statement, and supplements his pleadings with a copy of the US Postal Service (USPS) Express Mail Label No. EV155457345US (which number also appears on the first page of the application transmittal and on the cover/title page of the application);

- while that USPS Express Mail label contains a hand-written "date in," of "2/28/03," it also contains a USPS date stamp of "FEB 27 2003 HOUSTON TX GALLERIA

FINANCE STA" and: (a) a companion USPS "Track & Confirm" Shipment History evidences "ACCEPTANCE, February 27, 2003, 4:45 p.m., HOUSTON, TX 77056," a companion USPS postal receipt dated "2/27/02, 4:45 p.m." evidences USPS Express Mail Label No. EV155457345US as the item shipped and paid for.

CONCLUSION

Therefore, as to the instant nonprovisional application, Application No. 10/375,614, the Office of Initial Patent Examination is specifically instructed to:

- assign a filing date of 27 February, 2003; and
- issue a filing receipt specifying the filing date as that of 27 February, 2003.

The instant application is being forwarded to OIPE to be handled as set forth above before being forwarded for examination in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (703) 305-9199.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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OFFICE OF PETITIONS

PILLSBURY WINTHROP SHAW PITTMAN
P.O. BOX 10500
MCLEAN VA 22102

In re Application of :
Rento Tanase et al :
Application No. 10/375,624 : ON PETITION
Filed: February 27, 2003 :
Attorney Docket No. P 0301447/H7868US :

This is a decision on the petition, filed April 11, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on March 15, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 3632 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20050330

DATE : March 30, 2005

TO SPE OF : ART UNIT 2827

SUBJECT : Request for Certificate of Correction on Patent No.: 6,731,556 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

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CHARLOTTE, NC 28205

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OFFICE OF PETITIONS

In re Application of :
Joachim Weber et al :
Application No. 10/375,668 : ON PETITION
Filed: February 27, 2003 :
Attorney Docket No. 1999DE133/C2

This is a decision on the petition, filed July 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 June 25, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (703) 306-5684.

The file will be forwarded to Technology Center AU 1626 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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WARNER-LAMBERT COMPANY
2800 PLYMOUTH RD
ANN ARBOR MI 48105

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SEP 01 2006

OFFICE OF PETITIONS

In re Application of :
Jian-Min Fu :
Application No. 10/375,687 : ON PETITION
Filed: February 27, 2003 :
Attorney Docket No. Pharmacia Case :
00894

This is a decision on the petition to revive an abandoned application under 37 CFR 1.137(b), filed February 10, 2006.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to timely file a response to the non-final Office action mailed January 21, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under 37 CFR 1.136(a) were purchased. Accordingly, no reply having received, the application became abandoned on April 22, 2005. A Notice of Abandonment was mailed on August 3, 2005.

With the instant petition, petitioner paid the petition fee, submitted the required reply in the form of an Amendment, and made the proper statement of unintentional delay.

Pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the $1020.00 extension of time fee submitted with the petition on February 10, 2006 was subsequent to the maximum period obtainable for reply (July 21, 2005), this fee has been refunded to petitioner's Deposit Account No. 23-0455.

The matter is being forwarded to Group Art Unit 1625 for consideration of the Amendment filed February 10, 2006.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

HICKMAN PALERMO TRUONG & BECKER, LLP
1600 WILLOW STREET
SAN JOSE CA 95125

In re Application of
Sakamoto, Mukherjee, Sudai & Raj
Application No.: 10/375,691
Filed: February 24, 2003
Attorney Docket No.: 60054-0012
For: METHOD AND APPARATUS FOR MONITORING A DATABASE SYSTEM

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed July 7, 2003 (certificate of mailing date July 3, 2003).

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

The above-identified application was filed on February 24, 2003 without an executed oath or declaration. Accordingly, on April 21, 2003, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration and filing fees, and a surcharge for their late filing.

In response, on July 7, 2003 (certificate of mailing date July 3, 2003), the instant petition was filed. The agent who signed the petition explains that non-signing joint inventor Frank Sudia received a copy of the application and declaration for the above-identified application, but refused to sign the declaration for the patent application on June 12, 2003.

A grantable petition under 37 CFR 1.47(a) requires

(1) a petition including proof of the pertinent facts establishing that the joint inventor(s) refuses to join, or cannot be found or reached after diligent effort,
(2) a proper oath or Declaration executed by the available joint inventor(s),
(3) the fee of $130 as specified in 37 CFR § 1.17(h), and
(4) the last known address of the omitted inventor(s).

This petition lacks item (2) above.

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 still has not been presented. The application file does not contain a declaration listing complete identifying information for all inventors and signed by the available inventors. Only the originally submitted unexecuted declaration is in the application file. That declaration does not list

each inventor's residence and citizenship. In addition, it is noted that the inventors' mailing addresses are all the same. Do they all regularly receive mail at the same address? Given the fact that Mr. Sudia is no longer an employee of IP Locks, it is assumed that he does not receive mail at the same address as the other joint inventors. An oath or declaration in compliance with 37 CFR 1.63 and 1.64 signed by the Rule 1.47 applicants on behalf of Mr. Sudia is REQUIRED. See MPEP 409.03(a).

Regarding finances, deposit account 50-1302 will be charged a one month extension of time fee ($55) because petitioners had two (2) months to respond to the April 21, 2003 Notice. Petitioners filed the instant petition on July 7, 2003 (certificate of mailing date July 3, 2003). Thus, a one month extension of time is required. In addition, petitioners will be charged the $375 basic filing fee, the $65 late filing fee/declaration fee, and $234 in additional claim fees. These fees were required by the April 21, 2003 Notice.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop PETITION Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By facsimile:	(703) 308-6916 Attn: Office of Petitions
By hand:	Office of Petitions 2201 South Clark Place Crystal Plaza 4, Suite 3C23 Arlington, VA 22202

Telephone inquiries should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Paper No. 9

HICKMAN PALERMO TRUONG & BECKER, LLP
1600 WILLOW STREET
SAN JOSE CA 95125

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OCT 0 6 2003

OFFICE OF PETITIONS

In re Application of
Sakamoto, Mukherjee, Sudai & Raj
Application No.: 10/375,691
Filed: February 24, 2003
Attorney Docket No.: 60054-0012
For: METHOD AND APPARATUS FOR MONITORING A DATABASE SYSTEM

DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a) & DECISION ON PETITION UNDER 37 CFR 1.181 FOR REFUND

This is a decision on the reconsideration petition under 37 CFR 1.47(a), filed September 22, 2003 (certificate of mailing date September 17, 2003) and the petition under 37 CFR 1.181, filed September 22, 2003 (certificate of mailing date September 17, 2003) for refund of excess charges to applicants' deposit account.

The petition under 37 CFR 1.47(a) is **GRANTED**.

The petition under 37 CFR 1.181 is **GRANTED**.

Petitioners have shown that the non-signing inventor, Frank Sudia, has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the statement of facts of Agent Christopher J. Brokaw establishes that Mr. Sudia received a copy of the application and declaration for the above-identified application, but refused to sign the declaration for the patent application on June 12, 2003 during a telephone conversation with Agent Brokaw. 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. The petition under 37 CFR 1.47(a) is **granted**.

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.

A review of financial records for this application reveals that petitioners have paid two $234 additional claim fees and two $65 late filing fees. Apparently the July 17, 2003 check for monies owed was not negotiated until after the previous decision on petition was written. Thus, petitioners' deposit account was erroneously charged certain fees. Petitioners are entitled to a refund of $299. The petition under 37 CFR 1.181 for refund is **granted**. Pursuant to petitioners' authorization, deposit account no. 50-1302 will be credited $299 -- the $234 additional claim fees

and the $65 late filing fees.

After this decision is mailed, the above-identified application will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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FRANK SUDIA
237 BANKS STREET
SAN FRANCISCO CA 94110

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OFFICE OF PETITIONS

In re Application of
Sakamoto, Mukherjee, Sudai & Raj
Application No.: 10/375,691
Filed: February 24, 2003
Attorney Docket No.: 60054-0012
For: METHOD AND APPARATUS FOR MONITORING A DATABASE SYSTEM

LETTER

Dear Mr. Sudia:

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: HICKMAN PALERMO TRUONG & BECKER, LLP
1600 WILLOW STREET
SAN JOSE CA 95125

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APR - 6 2005

DNAX RESEARCH, INC.
LEGAL DEPARTMENT
901 CALIFORNIA AVENUE
PALO ALTO CA 94304

In re Application of	:
Birgit Oppmann et al	:
Serial No.: 10/375,706	: PETITION TO MAKE SPECIAL
Filed: February 27, 2003	:
Attorney Docket No.: DX01042XB	:

This is in response to the petition filed August 11, 2003, to make the above-identified application special under the provisions of 37 CFR 1.102(d) based on infringement.

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, II, relating to actual or potential infringement. Therefor the petition is **GRANTED**.

The application will be forwarded to the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission to the Office general facsimile number 571-273-8300.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Date : January 9, 2007

Patent No. : 7,129,081
Inventor(s) : Urs Christian Hubler, et al.
Issued : October 31, 2006
Title : APPARATUS AND METHOD FOR DETECTING MICROORGANISMS
Docket No. : 920721-96119

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of 37 CFR 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Fee(s) Transmittal Form PTOL-85B. After payment of the issue fee, correction of assignment data submitted on the PTOL-85B can only be done by Certificate of Correction under 37 CFR 1.323, with a request under 37 CFR 3.81(b).

A request for a patent to be corrected to state the name of the assignee must:

A. state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent;
B. include a request for a certificate of correction under 37 CFR 1.323 along with the fee set forth in 37 CFR 1.20(a); and
C. include the processing fee set forth in 37 CFR 1.17(i).

If the request is granted, Certificates of Correction Branch will be notified that a Certificate of Correction may be issued.

See Manual of Patent Examining Procedure, Section 1481.01 (Rev. 3) (Oct. 2005).

Applicant has not included items A and or C above, accordingly, the request for Certificate of Correction to add or change the assignee data is dismissed.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail:
Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: 571-273-8300
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Any inquiry concerning this communication should be directed to Ms. A. Green at (703) 308-9380 ext. 123.

For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 or (703) 308- 9380 Ext. 123

Barnes & Thornburg LLP
One N. Wacker Dr., Ste 4400
Chicago, Il 60606-2833

CBN/arg

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United States Patent and Trademark Office
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William M. Lee, Jr.
Barnes & Thornburg
P.O. Box 2786
Chicago IL 60690-2786

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OFFICE OF PETITIONS

In re Application of	:	
Hubler et al.	:	
Application No. 10/375712	:	DECISION
Filing or 371(c) Date: 02/26/2003	:	ON PETITION
Patent No.: 7129081	:	
Issue Date: 10/31/2006	:	
Attorney Docket Number: 920721 - 96119	:	

This is a decision on the correspondence entitled "Renewed Request for Certificate of Correction," filed August 15, 2007, to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction. The request is properly treated as a petition under 37 CFR 3.81(b)[1].

The Petition is **granted**.

The petition was accompanied by a certificate of correction as required by 3.81(b), (filed December 13, 2006), and the fee submitted with the present petition. Further, Office assignment records reflect that Concentris GMBH and Universitat Basel are the assignees of record. As the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to be processed after issuance of this application into a patent.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

This matter is being referred to the Certificates of Correction Branch for processing of a certificate of correction after issuance of this application into a patent.

Derek L. Woods
Attorney
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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PEREGRINE PHARMACEUTICALS, INC.
5353 WEST ALABAMA
SUITE 306
HOUSTON TX 77056

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AUG 0 6 2009

OFFICE OF PETITIONS

In re Application of :
Thorpe, et al. :
Application No. 10/375,716 :
Filed: February 27, 2003 :
Attorney Docket No.3999.001297:
/UTSD:0433-2 :

DECISION ON APPLICATION FOR PATENT TERM ADJUSTMENT

This is a decision on the "APPLICATION (OR REQUEST OR PETITION) FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(b)," filed June 11, 2009. Applicants request that the initial determination of patent term adjustment be corrected from five hundred seventy-five (575) days to six hundred and two (602) days.

The application for patent term adjustment is **GRANTED**.

The Office has updated the PALM screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is six hundred and two **(602)** days. A copy of the updated PALM screen, showing the correct determination, is enclosed.

On April 30, 2009, 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 575 days. The instant application for patent term adjustment was timely filed on June 11, 2009[1]. Applicants argue that a period of adjustment of 644 days for Office delay should be entered for the period from April 28, 2004, the date that is fourteen months after the application was filed, to January 4, 2006, the date of mailing of a restriction requirement. Currently only 617 days have been entered for the over fourteen month delay period.

[1] PALM records indicate that the Issue Fee was received on June 11, 2009.

Applicants' arguments have been considered, and found persuasive. The application was filed on February 27, 2003. On January 4, 2006, the Office mailed a restriction requirement. On January 31, 2006, the Office vacated the January 4, 2006 restriction requirement and mailed another restriction requirement. Applicants argue that a period of delay of 644 days should be entered pursuant to 37 CFR 1.702(a)(1), rather than the current period of delay of 617 days.

Pursuant to § 1.702(a)(1), a period of reduction should be entered for the failure by the Office to mail at least one of a notification under 35 U.S.C. 132 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a). In this case, the January 31, 2006 restriction requirement constituted the notification under 35 U.S.C. 132 because the January 4, 2006 restriction requirement was vacated in the January 31, 2006 restriction requirement.

The Office mailed an action under 35 U.S.C. 132 on January 31, 2006, fourteen months and 644 days after the application was filed. Accordingly, an additional period of adjustment of 27 days, for a total of 644 days for the 14 month delay period has been entered. The total period of Office delay is 698 days (644 days, pursuant to § 1.702(a)(1), + 54 days, pursuant to § 1.702(a)(2)).

The period of reduction of 96 days for applicant delay is not in dispute.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the notice of allowance is six hundred and two **(602)** days (698 days of Office delay - 96 days of applicant delay)

Pursuant to applicants' authorization, the $200.00 fee set forth in 37 CFR 1.18(e) will be charged to deposit account no. 50-3493. No additional fees are required.

The Office of Data Management has been advised of this decision. The application is thereby 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 if applicable, for the Office taking in excess of three years to issue the patent.

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 PAIR Screen

Day : Wednesday

PALM INTRANET

Date: 8/5/2009
Time: 18:34:41

PTA Calculations for Application: 10/375716			
Application Filing Date:	02/27/2003	PTO Delay (PTO):	671
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	96
Post-Issue Petitions:	0	Total PTA (days):	602
PTO Delay Adjustment:	27		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
268	08/05/2009	ADJUSTMENT OF PTA CALCULATION BY PTO	27		
252	04/30/2009	MAIL NOTICE OF ALLOWANCE	54		213
251	03/13/2009	ISSUE REVISION COMPLETED			
250	03/09/2009	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
249	03/09/2009	DOCUMENT VERIFICATION			
248	03/09/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
247	03/02/2009	NOTICE OF ALLOWABILITY			
242	03/09/2009	CASE DOCKETED TO EXAMINER IN GAU			
232	02/25/2009	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
219	02/12/2009	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
218	01/26/2009	MAIL ADVISORY ACTION (PTOL - 303)			
217	01/21/2009	ADVISORY ACTION (PTOL-303)			
214	12/17/2008	DATE FORWARDED TO EXAMINER			
213	11/07/2008	AMENDMENT AFTER FINAL REJECTION			
212	09/02/2008	MAIL FINAL REJECTION (PTOL - 326)			
211	08/29/2008	FINAL REJECTION			
206	06/19/2008	DATE FORWARDED TO EXAMINER			
205	05/21/2008	RESPONSE AFTER NON-FINAL ACTION		96	203
204	05/21/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
203	11/15/2007	MAIL NON-FINAL REJECTION			
202	11/13/2007	NON-FINAL REJECTION			
200	09/10/2007	DATE FORWARDED TO EXAMINER			

199	09/07/2007	RESPONSE AFTER NON-FINAL ACTION			
198	06/08/2007	MAIL NON-FINAL REJECTION			
197	06/05/2007	NON-FINAL REJECTION			
196	02/27/2003	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
195	02/27/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
194	04/10/2007	PARALEGAL TD ACCEPTED			
193	04/04/2007	TERMINAL DISCLAIMER FEE PAID			
192	04/09/2007	DATE FORWARDED TO EXAMINER			
191	04/04/2007	RESPONSE AFTER NON-FINAL ACTION			
190	02/26/2007	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
189	11/28/2006	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
188	01/19/2007	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
187	01/19/2007	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
186	01/09/2007	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
185	01/09/2007	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
184	01/05/2007	MAIL NON-FINAL REJECTION			
183	12/29/2006	NON-FINAL REJECTION			
182	12/15/2006	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
181	12/05/2006	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
179	12/06/2006	DATE FORWARDED TO EXAMINER			
178	11/29/2006	AMENDMENT AFTER FINAL REJECTION			
177	11/28/2006	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
176	10/26/2006	MAIL FINAL REJECTION (PTOL - 326)			
175	10/24/2006	FINAL REJECTION			
174	08/14/2006	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
173	08/09/2006	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
172	08/10/2006	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			

171	08/22/2006	DATE FORWARDED TO EXAMINER			
170	08/09/2006	RESPONSE AFTER NON-FINAL ACTION			
169	06/29/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
165	02/09/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
164	10/17/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
163	08/16/2006	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
159	07/30/2005	MISCELLANEOUS INCOMING LETTER			
158.7	06/29/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
158	06/29/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
157	02/27/2006	MISCELLANEOUS INCOMING LETTER			
156	02/27/2006	PRELIMINARY AMENDMENT			
155	06/22/2006	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
154	06/21/2006	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
153.7	02/09/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
153	02/09/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
152	10/17/2005	REFERENCE CAPTURE ON IDS			
151.7	10/17/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
151	10/17/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
150	05/09/2006	MAIL NON-FINAL REJECTION			
149	04/26/2006	NON-FINAL REJECTION			
83	03/07/2006	DATE FORWARDED TO EXAMINER			
82	02/27/2006	RESPONSE TO ELECTION / RESTRICTION FILED			
81	02/27/2006	REFERENCE CAPTURE ON IDS			
80.7	02/27/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
80	02/27/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
79	01/31/2006	MAIL NOTICE OF WITHDRAWN ACTION			
78	01/31/2006	MAIL RESTRICTION REQUIREMENT			

77	01/23/2006	REQUIREMENT FOR RESTRICTION / ELECTION			
76	01/23/2006	LETTER WITHDRAWING / VACATING OFFICE ACTION			
75	01/04/2006	MAIL RESTRICTION REQUIREMENT	617		-1
74	01/03/2006	REQUIREMENT FOR RESTRICTION / ELECTION			
73	11/14/2005	REFERENCE CAPTURE ON IDS			
72.7	11/14/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
72	11/14/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
71	11/30/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
70	10/18/2005	CASE DOCKETED TO EXAMINER IN GAU			
69	08/26/2005	REFERENCE CAPTURE ON IDS			
68.7	08/26/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
68	08/26/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
67.7	08/22/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
67	08/22/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
66.7	07/01/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
66	07/01/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
65	06/28/2005	CASE DOCKETED TO EXAMINER IN GAU			
64	06/20/2005	REFERENCE CAPTURE ON IDS			
63.7	06/20/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
63	06/20/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
62	04/18/2005	CORRESPONDENCE ADDRESS CHANGE			
61.7	02/28/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
61	02/28/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
60	01/28/2005	REFERENCE CAPTURE ON IDS			
59.7	01/28/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
59	01/28/2005	INFORMATION DISCLOSURE STATEMENT (IDS)			

		FILED			
58	05/14/2004	REFERENCE CAPTURE ON IDS			
57.7	12/28/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
57	12/28/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
56.7	11/19/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
56	11/19/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
55.7	10/29/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
55	10/29/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
54	06/06/2003	CORRECTED FILING RECEIPT			
53.7	11/01/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
53	11/01/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
51.7	10/07/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
51	10/07/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
50	10/25/2004	CORRESPONDENCE ADDRESS CHANGE			
49	08/30/2004	REFERENCE CAPTURE ON IDS			
48.7	08/30/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
48	08/30/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
47	09/20/2004	CORRESPONDENCE ADDRESS CHANGE			
46.7	06/21/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
46	06/21/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
45.7	05/14/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
45	05/14/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
44	06/17/2004	REFERENCE CAPTURE ON IDS			
43.7	03/29/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
		INFORMATION DISCLOSURE STATEMENT (IDS)			

43	03/29/2004	FILED			
42.7	03/15/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
42	03/15/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
41	06/06/2003	NEW OR ADDITIONAL DRAWING FILED			
40	02/27/2003	PRELIMINARY AMENDMENT			
39.7	02/06/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
39	02/06/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
38	02/06/2004	REFERENCE CAPTURE ON IDS			
37	02/27/2003	REFERENCE CAPTURE ON IDS			
36.7	02/18/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
36	02/18/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
35.7	02/20/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
35	02/20/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
34	02/12/2004	REFERENCE CAPTURE ON IDS			
33.7	02/12/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
33	02/12/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
32	03/03/2004	REFERENCE CAPTURE ON IDS			
31.7	02/13/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
31	02/13/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
30.7	07/30/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
30	07/30/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
29.7	08/11/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
29	08/11/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
27	12/09/2003	CASE DOCKETED TO EXAMINER IN GAU			
26	08/21/2003	APPLICATION RETURN FROM OIPE			

25	08/22/2003	APPLICATION IS NOW COMPLETE			
24	08/22/2003	PRE-EXAM OFFICE ACTION WITHDRAWN			
23	08/21/2003	APPLICATION RETURN TO OIPE			
22	08/21/2003	APPLICATION RETURN FROM OIPE			
21	08/22/2003	APPLICATION IS NOW COMPLETE			
20	08/21/2003	PRE-EXAM OFFICE ACTION WITHDRAWN			
19	08/21/2003	APPLICATION RETURN TO OIPE			
18	08/21/2003	APPLICATION RETURN FROM OIPE			
17	08/21/2003	APPLICATION IS NOW COMPLETE			
16	08/21/2003	PRE-EXAM OFFICE ACTION WITHDRAWN			
15	08/21/2003	APPLICATION RETURN TO OIPE			
14	08/21/2003	APPLICATION DISPATCHED FROM OIPE			
13	08/21/2003	APPLICATION IS NOW COMPLETE			
12	06/06/2003	ADDITIONAL APPLICATION FILING FEES			
11	06/06/2003	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
10	06/06/2003	APPLICANT HAS SUBMITTED A NEW SPECIFICATION TO CORRECT CORRECTED PAPERS PROBLEMS			
9	07/01/2003	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
8	05/21/2003	CORRECTED PAPER			
6	02/27/2003	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
5	04/24/2003	CLEARED BY L&R (LARS)			
4	04/18/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
3	03/18/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
2	02/27/2003	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
1	02/27/2003	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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TOLEDO, OH 43666

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OFFICE OF PETITIONS

In re Application of :
Thomas E. Nahill et al :
Application No. 10/375,758 : ON PETITION
Filed: February 26, 2003 :
Attorney Docket No. 18088 USA :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed November 2, 2004, to withdraw the above-identified application from issue after payment of the issue fee. See 1233 *Official Gazette* 54 (April 11, 2000).

The petition is **DISMISSED as moot.**

Unfortunately, the petition did not reach the appropriate official for a decision until after the above-identified application issued as U.S. Patent No. 6,811,845. Any inconvenience caused petitioners is regretted.

The Request for Continued Examination (RCE) deposited on November 2, 2004, is considered an improper submission under 37 CFR 1.114 and will not be further processed. The RCE filing fee will not be charge to counsel's deposit account.

The information disclosure statement (IDS) has been placed in the file of the above-identified application without further consideration. See 37 CFR 1.97(i).

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:

Keith G. Haddaway
Venable LLP
P.O. Box 34385
Washington, DC 20043-9998

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OFFICE OF PETITIONS

Pepper Hamilton LLP
400 Berwyn Park
899 Cassatt Road
Berwyn PA 19312-1183

In re Patent No. 7,427,594 : DECISION ON APPLICATION FOR
Issued: September 23, 2008 : PATENT TERM ADJUSTMENT and
Application No. 10/375,765 : NOTICE OF INTENT TO ISSUE
Filed: February 26, 2003 : CERTIFICATE OF CORRECTION
Dkt. No.: UPN0002-100 :

This is a decision on the "APPLICATION FOR CONSIDERATION OF PATENT TERM ADJUSTMENT PURSUANT TO 37 CFR §1.702," filed November 17, 2008. This matter is being properly treated as an application for patent term adjustment in accordance with 37 CFR 1.705(d).

The application for patent term adjustment ("PTA") under 37 CFR 1.705(d) is **DISMISSED**.

The above-identified application matured into U.S. Patent No. 7,427,594 on September 23, 2008. 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 zero days. Patentees argue that the patent is entitled to an adjustment of at least 600 days pursuant to 37 CFR 1.703(b).

At the time of issuance, the patent was entitled to zero days of adjustment, as reflected on the patent.

Patentee argues that the patent is entitled to an adjustment of at least 600 days in accordance with 37 CFR 1.703(b) for failure to issue the patent within three years of the date upon which the application for patent was filed.

Patentee's arguments have been carefully considered, but are not convincing. The instant patent was subject to continued examination in accordance with 35 USC 132 and 37 CFR 1.114.

An application for patent may be entitled to adjustment if the issuance of a patent is delayed due to the failure of the Office to issue a patent within three years after the date on which the

application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application. *See*, 37 CFR 1.702(b).

However, adjustment under 37 CFR 1.702(b) may not include any time consumed by continued examination of the application under 35 U.S.C. 132(b). *See*, 37 CFR 1.702(b)(1). *See, also*, 37 CFR 1.703(b)(1).

Continued examination in the instant application commenced February 13, 2006. Accordingly, the instant patent is not entitled to adjustment under 37 CFR 1.702(b) because the period of adjustment for failure to issue the patent within three years of the application filing date cannot include the period of time consumed by continued examination.

Accordingly, at the time of issuance, the patent was entitled to an adjustment of zero days.

Any request for reconsideration of this decision must be submitted within two months of the mail date of the instant decision. The time period for reconsideration may not be extended pursuant to 37 CFR 1.136.

The required patent term adjustment application fee of $200.00 has been charged to patentee's deposit account as authorized.

Telephone inquiries specific to this matter may be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

Kery Fries
Senior Patent Attorney
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. None

MYERS BIGEL SIBLEY & SAJOVEC
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RALEIGH NC 27627

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JUN 21 2007

OFFICE OF PETITIONS

In re Application of :
Jun Hatakeyama et al. :
Application No. 10/375,773 : DECISION ON PETITION
Filed: February 27, 2003 : UNDER 37 C.F.R. §1.181
Attorney Docket No.: 5576-144IP :
Title: PHOTOACID GENERATING :
COMPOUNDS, CHEMICALLY AMPLIFIED :
POSITIVE RESIST MATERIALS, AND :
PATTERN FORMING METHOD :

This is a decision on the petition filed April 26, 2007, pursuant to 37 C.F.R. §1.181, requesting that the holding of abandonment in the above-identified application be withdrawn.

The above-identified application became abandoned for failure to reply in a timely manner to the Office Communication, mailed August 24, 2006, which set a shortened statutory period for reply of one month. 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 September 25, 2006. A notice of abandonment was mailed on April 5, 2007.

With the present petition, Petitioner has asserted that a response was submitted on September 15, 2006.

Petitioner has further submitted a copy of this submission, and it is noted that it contains a certificate of facsimile transmission dated September 15, 2006.

The electronic file has been reviewed, and a copy of this response has been located in the same.

Petitioner has requested that the holding of abandonment in the above-identified application be withdrawn. It is clear that a response was timely submitted on September 15, 2006.

Considering the facts and circumstances of the delay at issue, as set forth on petition, it is concluded that Petitioner has met his burden of establishing that a submission was timely submitted.

Accordingly, the petition under 37 C.F.R. §1.181(a) is **GRANTED**. The holding of abandonment is **WITHDRAWN**.

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the response that was received on September 15, 2006 can be processed.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[1]. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

1 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).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE 3/16/09 Paper No.: ——

TO SPE OF : ART UNIT 1795

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/375723 Patent No.: 7303852 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

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: _____

Cynthia H. Kelly — SPE
1795 — Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 7/22/08

Paper No.: —

TO SPE OF : ART UNIT 3734

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/375800 Patent No: 7344554 B2

A response is requested with respect to a request for a certificate of correction.

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within **7** days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within **7** days, to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

VIRGINIA TOLBERT
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

TODD E. MANAHAN
SUPERVISORY PATENT EXAMINER
SPE

3734
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

MOLECULAR IMPRINTS INC
KENNETH C. BROOKS
PO BOX 81536
AUSTIN, TX 78708-1536

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NOV 22 2005

OFFICE OF PETITIONS

In re Application of :
Van N. Truskett et al :
Application No. 10/375,817 : ON PETITION
Filed: February 27, 2003 :
Attorney Docket No. P56/MII-16-16 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed November 21, 2005, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on March 11, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 1762 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 DEPARTMENT OF COMMERCE
U.S. Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.

EXAMINER	
ART UNIT	PAPER
	20050411

DATE MAILED: APR 2 5 2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

DECISION ON PETITION

This is a decision on the petition filed on 28 March 2005 under 37 CFR 1.181 or alternatively under 37 CFR 1.183 in U. S. Patent Application Serial Number 10/375,832.

The petition requests withdrawal of the finality of the last office action since the declaration and supporting documents filed with the 29 October 2004 amendment were not scanned in the application and considered by the examiner when the final rejection was formulated. The petition also requests suspension of the rules for adjustment of a patent term.

During a telephone conversation between the undersigned and Mr. Brooks on 11 April 2005 (see attached interview summary) it was agreed that a supplemental final office action restarting the period for response taking into account the declaration and supporting documents provided as exhibits with the petition and scanned into the application file therewith would be issued by the Examiner. It was further agreed that the request for patent term adjustment was premature as no patent has been issued and that the request for suspension of rules is therefore moot. As such, the petition has been treated as a petition under 37 CFR 1.181.

In view of the agreement discussed above, the petition is DISMISSED.

TIMOTHY MEEKS
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
www.uspto.gov

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. BOX 2938
MINNEAPOLIS MN 55402

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JUL 09 2007

OFFICE OF PETITIONS

In re Application of :
Joy M. Campbell et al :
Application No. 10/375,844 : DECISION ON PETITION
Filed: February 25, 2003 :
Attorney Docket No. P04854US04 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 26, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision.

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of October 23, 2006. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2).

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 $1,500; and (3) a proper statement of unintentional delay.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S,. 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,020 extension of time fee submitted with the petition on April 26, 2007, was

subsequent to the maximum extendable period for reply, a refund of this fee is being credited to deposit account no. 19-0743 as authorized.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 1644 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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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MAR 2 4 2008

SCHWEGMAN, LUNDBERG
& WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS MN 55402

In re Application of :
Campbell, et al. :
Application No. 10/375,844 : DECISION
Filed: 25 February, 2003 :
Attorney Docket No. P04854US04 :

This is a decision on the petition filed on 11 February, 2008, and considered as a request to withdraw the holding of abandonment under 37 C.F.R. §1.181.

The petition as considered under 37 C.F.R. §1.181 is **GRANTED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly following the 9 July, 2007, petition decision[1] granting revival of the application and setting a two- (2-) month period within which to file the Appeal Brief and fee, with reply due absent extension of time on or before 9 September, 2007;

[1] The 24 January, 2008, Notice of Abandonment indicates that abandonment followed "failure to timely file a proper reply to the Office letter mailed on 26 April, 2007." There was no Office letter of that date setting a reply. Following the 23 October, 2006, final Office action, Petitioner filed an after-final amendment, which was not of right and not a proper reply and the Examiner refused to enter by way of a 16 January, 2007, Advisory Action. Thereafter the application went abandoned, but in response to a 26 April, 2007, petition to revive (averring unintentional delay) the application was revived by way of the 9 July, 2007, decision.

- the application went abandoned after midnight 9 September, 2007;
- the Office mailed the Notice of Abandonment on 24 January, 2008;
- on 11 February, 2008, Petitioner filed the instant petition with, *inter alia*, an averment that the period for reply following the 9 July, 2007, petition decision (setting the two- (2-) month period for reply) was extendable to Monday, 11 February, 2008, and included therewith a request and fee for extension of time and an Appeal Brief and fee, and suggested that the Notice of Abandonment had been mailed precipitously and improvidently—providing a showing consistent with the guidance at the Commentary at MPEP §711.03(c)(I)(A) and (B) regarding non-receipt and timely filing, respectively.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)), and that those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[3]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

---

[2] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[3] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[4]

Delays in responding properly raise the question whether delays are unavoidable.[4] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[5]

And the Petitioner must be diligent in attending to the matter.[6] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[7]))

Allegations as to the Request to
Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[8] (See: the commentary at MPEP §711.03(c)(I)(A) and (B) , as to non-receipt and timely filing, respectively.)

And the regulation requires that relief be sought within two (2) months of the act complained of.

Petitioner appears to have satisfied the burdens herein.

---

4 See: *Changes to Patent Practice and Procedure*; *Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

5 See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

6 See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

7 Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

8 See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

CONCLUSION

Petitioner appears to have satisfied the burdens herein, and the petition as considered under 37 C.F.R. §1.181 is **granted**, and the 24 January, 2008, Notice of Abandonment is **vacated**.

The instant application is released to Technology Center AU 1644 to await the Examiner's Answer with further processing in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the Technology Center AU in response to this decision—and it is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center AU where that change of status must be effected.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[9]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

---

[9] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Orum & Roth LLC
53 W Jackson Boulevard
Chicago IL 60604-3606

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OFFICE OF PETITIONS

In re Application of :
LAFOND, et al. :
Application No. 10/375,846 : DECISION ON PETITION
Filed: February 26, 2003 : TO WITHDRAW
Attorney Docket No. 13413 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed July 16, 2006.

The request is **APPROVED**.

A review of the file record indicates that Catherine L. Gemrich: (1) does not have power of attorney in this patent application; and (2) has been employed or otherwise engaged in the proceedings in this patent application. In view of the present decision, Catherine L. Gemrich has been withdrawn from the present application and may not prepare or submit papers under 37 C.F.R. § 1.34, or correspond in any manner in this application unless appointed in an acceptable power of attorney under 37 C.F.R. § 1.32(b).

Applicant is reminded that there is no attorney of record at this time.

A review of the file discloses that a final Office action mailed on June 14, 2006, which set forth a three month shortened statutory period for a reply. Extensions of time under 37 CFR 1.136(a) were available. To date, there is no indication that a reply to the Office action of June 14, 2006 has been received.

The correspondence address remains unchanged.

Telephone inquires concerning this decision should be directed to Patricia Volpe at 571-272-6825.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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NOV 10 2003

OFFICE OF THE DIRECTOR
TC 3600

BRIAN ROFFE, ESQ
11 SUNRISE PLAZA, SUITE 303
VALLEY STREAM, NY 11580-6170

Paper No. 6

In re application of
David S. Breed
Application No. 10/375,870
Filed: February 24, 2003
For: ROADSIDE BARRIER

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**.

Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(703) 308-3868

SNM/cps 11/4/03

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
www.uspto.go

Paper No. 34

King & Spalding
191 Peachtree Street, N.E.
Atlanta, GA 30303-1763

MAIL

JAN 23 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of
McKay, Sr., et al.
Appl. No.: 10/375,879
Filed: February 26, 2003
For: CELLULAR SIGNAL ENHANCER

DECISION ON PETITION
UNDER 37 CFR 1.59

This is a response to the petition under 37 CFR 1.59(b), filed October 9, 2003, to expunge information from the above identified application.

The decision on the petition will be held in abeyance until prosecution on the merits is closed, at which time the petition will be decided.

Petitioner requests that the information unintentionally submitted in the Information Disclosure Statement, filed October 23, 2003, be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR1.17(h) has been paid.

The decision on the petition is held in abeyance because prosecution on the merits is not closed. Accordingly, it is not appropriate to make a final determination of whether or not the material requested to be expunged is "material," with "materiality" being defined as any information which the examiner considers as being important to a determination of patentability of the claims. Thus, the decision on the petition to expunge must be held in abeyance at this time.

During prosecution on the merits, the examiner will determine whether or not the identified document is considered to be "material." If the information is not considered by the examiner to be material, the information will be returned to applicant.

The document in question will be maintained separate from the application file and not available to the public during prosecution.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4710

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

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MAY 0 5 2006

OFFICE OF PETITIONS

In re Application of :
Lisa Ann Neuhold et al :
Application No. 10/375,884 : DECISION ON PETITION
Filed: February 27, 2003 : TO WITHDRAW
Attorney Docket No. 0630/1D532-US2 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 4, 2005.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because 37 CFR 10.40 states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" Additionally, 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 because: [. . .]" Reasons a practitioner can permissively withdraw follow the later quotation.

Since the request for withdrawal as attorney or agent submitted on October 4, 2005 effectively provides no reasons for withdrawal, 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 for Withdrawal 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 Irvin Dingle at 571-272-3210.

Denise Pothier
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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JJGJR.: 02-05

Paper No: __

ENZO BIOCHEM, INC.
527 MADISON AVENUE (9TH FLOOR)
NEW YORK NY 10022

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FEB 0 2 2005

OFFICE OF PETITIONS

In re Application of :
Ilan, et al. :
Application No. 10/375,906 :
Filing Date: 27 February, 2003 :
Attorney Docket No. ENZ-64 :

This is a decision on the petition filed on 5 November, 2004, alleging unintentional delay under 37 C.F.R. §1.137(b).

For the reasons set forth below, the petition as considered under 37 C.F.R. §1.137(b) is **GRANTED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the non-final Office action mailed on 20 February, 2004, with response due absent extension of time on or before 20 May, 2004;
- the application went abandoned after midnight 20 May, 2004;
- the Office mailed the Notice of Abandonment on 9 September, 2004;
- on 20 December, 2005, Petitioner filed the instant petition and fee, a reply (in the form, it

appears, of an argument although Petitioner characterizes it as "an Amendment under 37 C.F.R. §1.115 (a preliminary amendment)), and made the statement of unintentional delay.

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[1]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[2]

Delays in responding properly raise the question whether delays are unavoidable.[3] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[4] And the Petitioner must be diligent in attending to the matter.[5] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[6]))

---

[1] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[2] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[3] See: *Changes to Patent Practice and Procedure; Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[4] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[5] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[6] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

The requirements for a grantable petition under 37 C.F.R. §1.137(b) are the petition and fee, a showing of unintentional delay, a proper reply, and–where appropriate--a terminal disclaimer and fee.

Petitioner has satisfied the requirements of the regulation.

CONCLUSION

The instant petition under 37 C.F.R. §1.137(b) hereby is **granted**.

The instant application is released to Technology Center 1600 for further processing.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

HEWLETT-PACKARD COMPANY
INTELLECTUAL PROPERTY ADMINISTRATION
P.O. BOX 272400
3404 E. HARMONY ROAD
FORT COLLINS, CO 80527-2400

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APR 18 2005

OFFICE OF PETITIONS

In re Application of	:	
Chaboud, et al.	:	DECISION GRANTING
Application No. 10/375,912	:	PETITION
Filed: February 21, 2003	:	
Attorney Docket No. B-4947 620712-1	:	

This is a decision on the petition under 37 CFR 1.10(c), filed March 29, 2004, originally filed August 25, 2003, requesting that the above-identified application be accorded a filing date of February 21, 2003, rather than the presently accorded filing date of February 26, 2003.

Petitioners allege that the application was deposited in Express Mail service on February 21, 2003. In support, the petition is accompanied by a copy of Express Mail Receipt No. EV224181427US (the same Express Mail number found on the original application papers located in the official file) showing a "date in" of February 21, 2003.

In view of the above, the petition is **GRANTED**.

Accordingly, the application is entitled to a filing date of February 21, 2003.

Since the instant petition has been granted, no petition fee is required.

The application is being returned to the Office of Initial Patent Examination for processing with a filing date of February 21, 2003 and issuance of a corrected filing receipt. Thereafter, the application will be forwarded to Technology Center 2100 for examination *in due course*.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions/Patent
United States Patent and Trademark Office

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SEED INTELLECTUAL PROPERTY LAW GROUP
701 FIFTH AVE
SUITE 6300
SEATTLE WA 98104-7092

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JAN 24 2005

OFFICE OF PETITIONS

In re Application	:	
Beutelschiess, et al.	:	
Application No. 10/375,927	:	DECISION ON APPLICATION
Filed: February 26, 2003	:	FOR PATENT TERM ADJUSTMENT
Atty Docket No. 130309.416	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT," filed November 23, 2004. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from zero (0) days to eight (8) days.

The application for patent term adjustment is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is **eight (8) days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On August 26, 2004, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above identified application. The Notice stated that the patent term adjustment (PTA) to date is zero (0) days. On November 23, 2004, Applicants timely[1] submitted the instant application for patent term adjustment, asserting that the correct number of days of PTA at the time of the mailing of the Notice of Allowance is eight (8) days.

Applicants assert entitlement to a patent term adjustment of eight (8) days on the basis that the PTO improperly assessed Applicants a delay of nine (9) days for responding to a Notice to File Missing Parts mailed on April 30, 2003. Applicants assert that they timely filed a response on July 25, 2003, within the three month period pursuant to 37 C.F.R. 1.704(b).

Applicants fail to state whether the patent issuing from the application is subject to a terminal disclaimer.

The Office initially determined a patent term adjustment of zero (0) days based on an adjustment for PTO delay of eight (8) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. §1.703(a)(1), reduced by Applicants' delay of nine (9) days pursuant to 35 U.S.C. 154(b)(2)(C)(ii) and 37 C.F.R. § 1.704(b). The adjustment of 9 days is at issue.

The adjustment of 9 days has been found to be incorrect. A review of the application file reveals that a Notice to File Missing Parts of Nonprovisional Application was mailed on April 30, 2003. Applicants timely filed a complete response to this notice on July 25, 2003. As this was timely pursuant to 37 CFR 1.704(b), no applicant delay should have been assessed.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **eight (8) days** (8 days of PTO delay and 0 days of applicant delay).

Receipt of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged.

The application file is being forwarded to the Office of Patent Publication for processing into a patent.

---

[1] Applicants filed the application for patent term adjustment contemporaneous with the filing of the issue fee.

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of Revised PAIR Screen

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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FROST BROWN TODD, LLC
2200 PNC CENTER
201 E. FIFTH STREET
CINCINNATI OH 45202

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OCT 24 2006

OFFICE OF PETITIONS

In re Application of :
ATTERBURY, et al. :
Application No. 10/375,957 : DECISION ON PETITION
Filed: February 28, 2003 : TO WITHDRAW
Attorney Docket No. 0100930.0504747 : 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 **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 David E. Franklin on behalf of all attorneys of record who are associated with Customer Number 26874. All attorneys/agents associated with Customer Number 26874 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

A Review of the file discloses that a non-final Office action was mailed on July 17, 2006, which set forth a three month shortened statutory period for reply. Extensions of time under 37 CFR 1.136(a) were available. To date, there is no indication that a reply to the Office action of July 17, 2006 has been received.

Telephone inquiries concerning this decision should be directed to Patricia Volpe at 571-272-6825.

David Bucei
Petitions Examiner
Office of Petitions

cc: William G. Atterbury
397 Bailey Place
Columbus, OH 43235

cc: S. Maurice Valla
Woodcock Washburn
One Liberty Place, 46th Floor
Philadelphia, PA 19103

UNITED STATES PATENT AND TRADEMARK OFFICE

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Woodcock Washburn, LLP
Cira Centre, 12th Floor
2929 Arch Street
Philadelphia, PA 19104-2891

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MAY 22 2007

OFFICE OF PETITIONS

In re Application of :
William G. Atterbury et al. :
Application No. 10/375,957 : DECISION ON PETITION
Filed: February 28, 2003 : TO WITHDRAW
Attorney Docket No. : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 29, 2007.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to S. Maurice Valla with the firm of Woodcock Washburn, LLP has been revoked by the assignee of the patent application on March 15, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

The statement under 37 CFR 3.73(b) filed with the revocation and power of attorney on March 15, 2007 is unacceptable. In this regard, the statement fails to set forth the chain of title from the inventors to the current assignee. However, in reviewing the file record, it is noted that a proper statement under 37 CFR 3.73(b) was received with the power of attorney of November 17, 2006. Accordingly, all future communications will be directed to the below-listed address until otherwise notified by applicant.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant.

Applicant is advised that a final rejection was mailed on February 1, 2007, setting a three month statutory time period for reply. Extensions of time under 37 CFR 1.136(a) are available. Failure to timely respond will result in the abandonment of this application.

Telephone inquires concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Frances Hicks
Petitions Examiner
Office of Petitions

cc: Mitz, Levin, Cohn, Ferris,
Glovsky and Popeo, P.C.
The Chrysler Center
666 Third Avenue, 24th Fl.
New York, NY 10017

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/375,957	02/28/2003	William G. Atterbury	

CONFIRMATION NO. 1836

OC000000023978474

23377
WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA, PA 19104-2891

Date Mailed: 05/21/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/15/2007.

- 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).

Kimberly Cabinet

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

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BATTELLE MEMORIAL INSTITUTE
505 KING AVENUE
COLUMBUS OH 43201

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JAN 27 2010

In re application of :
William G. Atterbury et al :
Application No. 10/375,957 : NOTICE
Filed: February 28, 2003 :
Attorney Docket No. 35056-503 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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505 KING AVENUE
COLUMBUS OH 43201

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JAN 27 2010

In re Application of :
William G. Atterbury et al :
Application No. 10/375,957 : DECISION ON PETITION
Filed: February 28, 2003 :
Attorney Docket No. 35056-503 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 26, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an RCE and amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final rejection mailed February 10, 2009, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 3731 for appropriate action by the Examiner in the normal course of business on the reply received October 26, 2009.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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Paper No. 3

MAIL

MAR 2 4 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

ILYA ZBOROVSKY
6 Schoolhouse Way
Dix Hills NY 11746

In re Application of:
POLYAKOV, et al.
Application No.: 10/375,977
Filed: February 28, 2003
For: SYSTEM OF AND METHOD FOR WARNING ABOUT UNAUTHORIZED OBJECTS ATTACHED TO VEHICLE BOTTOMS AND/OR ADJOINING AREAS

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition, filed February 28, 2003 under 37 C.F.R. §102(d) and M.P.E.P. §708.02(XI): Inventions For Countering Terrorism, to make the above-identified application special.

M.P.E.P. §708.02 (XI), which sets out the prerequisites for a grantable petition for Inventions For Countering Terrorism under 37 C.F.R. § 102(d), states in relevant part:

International terrorism as defined in 18 U.S.C. 2331 includes "activities that - (A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State; [and] (B) appear to be intended - (i) to intimidate or coerce a civilian population; (ii) to influence the policy of a government by intimidation or coercion; or (iii) to affect the conduct of a government by assassination or kidnapping..." The types of technology for countering terrorism could include, but are not limited to, systems for detecting/identifying explosives, aircraft sensors/security systems, and vehicular barricades/disabling systems.

Applicants who desire that an application relating to inventions for countering terrorism be made special should file a petition with the petition fee under 37 CFR 1.17(h) requesting the Patent and Trademark Office to make the application special. The petition for special status should be accompanied by a statement explaining how the invention contributes to countering terrorism.

The petition was not accompanied by the required petition fee. The petition also fails to explain how the invention contributes to countering terrorism.

Accordingly, the petition is **DISMISSED**. The application file is being forwarded to Central Files to await examination in its proper turn based on its effective filing date. Any request for

reconsideration must be filed within two months of the mailing date of this decision and should include the statement and fee as required.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAILED

MAY 18 2005

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

Ilya Zborovsky
6 Schoolhouse Way
Dix Hills, NY 11746

In re Application of:
Leonid POLYAKOV
Application No. 10/375,977
Filed: February 28, 2003
For: SYSTEM OF AND METHOD FOR WARNING ABOUT UNAUTHORIZED OBJECTS ATTACHED TO VEHICLE BOTTOMS AND/OR ADJOINING AREAS

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the Petition To Make Special under MPEP 708.02, XI: Invention for Countering Terrorism, filed February 4, 2005.

A grantable petition to make an application special under 37 C.F.R. § 1.102(d), and in accordance with MPEP 708.02, XI, for an invention which contributes to the countering of terrorism must be accompanied by a statement explaining how the invention contributes to countering terrorism. Examples of the types of technology for countering terrorism are set forth in MPEP 708.02, XI as including, but not limited to, systems for detecting/identifying explosives, aircraft sensors/security systems, and vehicular barricades/disabling systems.

The petition meets the requirements set forth above.

Accordingly, the petition is **GRANTED**.

The application file is being forwarded to the examiner for expedited action in its turn.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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MAIL

MAY 1 9 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Ilya Zborovsky
6 Schoolhouse Way
Dix Hills, NY 11746

In re Application of:
Leonid POLYAKOV
Application No. 10/375,977
Filed: February 28, 2003
For: SYSTEM OF AND METHOD FOR WARNING ABOUT UNAUTHORIZED OBJECTS ATTACHED TO VEHICLE BOTTOMS AND/OR ADJOINING AREAS

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the Petition To Make Special under MPEP 708.02, XI: Invention for Countering Terrorism, filed February 4, 2005.

A grantable petition to make an application special under 37 C.F.R. § 1.102(d), and in accordance with MPEP 708.02, XI, for an invention which contributes to the countering of terrorism must be accompanied by a statement explaining how the invention contributes to countering terrorism. Examples of the types of technology for countering terrorism are set forth in MPEP 708.02, XI as including, but not limited to, systems for detecting/identifying explosives, aircraft sensors/security systems, and vehicular barricades/disabling systems.

The petition meets the requirements set forth above.

Accordingly, the petition is **GRANTED**.

The application file is being forwarded to the examiner for expedited action in its turn.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

UR

MAY - 6 2003

PAPER NO. 3

In re Application of	:	
Eugene Ettinger	:	
Serial No:10/375,983	:	PETITION UNDER
Filed: February 28, 2003	:	M.P.E.P. 708.02, IV
For: SYSTEM FOR STERILIZATION OF SPACES AND SURFACES	:	

This is in response to the petition filed February 28, 2003, requesting that the above-identified application be granted Special Status under Section 708.02, IV of the MPEP and 37 CFR 1.102(c).

The petition has been considered and found to comply with the requirements set forth under the above-noted section. Accordingly, the petition is granted.

The petition is **GRANTED.**

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Ilya Zborovsky
6 Schoolhouse Way
Dix Hills, NY 11746

UNITED STATES PATENT AND TRADEMARK OFFICE
UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

UR

JUL 7 2003

PAPER NO. 3

In re Application of
Eugene Ettinger et al.
Serial No:10/375,984
Filed: February 28, 2003
For: SYSTEM FOR AND METHOD OF
STERLIZATION OF OBJECTS

PETITION UNDER
M.P.E.P. 708.02, IV

This is in response to the petition filed February 28, 2003, requesting that the above-identified application be granted Special Status under Section 708.02, IV of the MPEP and 37 CFR 1.102(c).

The petition has been considered and found to comply with the requirements set forth under the above-noted section. Accordingly, the petition is granted.

The petition is **GRANTED.**

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Ilya Zborovsky
6 Schoolhouse Way
Dix Hills,NY 11746

UNITED STATES PATENT AND TRADEMARK OFFICE

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COATS & BENNETT, PLLC
1400 Crescent Green, Suite 300
Cary, NC 27518

Mail Date: 04/21/2010

Applicant	: Hsien Woo	: DECISION ON REQUEST FOR
Patent Number	: 7583633	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/375,989	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/28/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1882** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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COATS & BENNETT, PLLC
1400 Crescent Green, Suite 300
Cary, NC 27518

Mail Date: 05/18/2010

Applicant : Hsien Woo
Patent Number : 7583633
Issue Date : 09/01/2009
Application No: 10/375,989
Filed : 02/28/2003

: 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 **1924** 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).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 10/375990

Paper No.: ____

DATE : 1/31/06

TO SPE OF : ART UNIT 3677

SUBJECT : Request for Certificate of Correction on Patent No.: 6941691 B2

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Virginia Tolbert

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 ext. 113

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

_____

_____

_____

_____

_____

_____ SPE

3677 Art Unit

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CAMPBELL & FLORES LLP
4370 LA JOLLA VILLAGE DRIVE
7TH FLOOR
SAN DIEGO CA 92122

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MAR 2 9 2004

OFFICE OF PETITIONS

Applicant: Ruoslahti et al.
Appl. No.: 10/375,992
Filing Date: February 27, 2003
Title: TUMOR HOMING MOLECULES, CONJUGATES DERIVED THEREFROM, AND METHODS OF USING SAME
Attorney Docket No.: P-LJ 5604
Pub. No.: US 2003/0152578 A1
Pub. Date: August 14, 2003

This is a decision on the request for corrected patent application publication under 37 CFR 1.221(b), filed on October 16, 2003 for the above-identified application.

The request is granted.

The corrected patent application publication will be published in due course.

Inquires concerning this communication should be directed to Mark Polutta at (703) 308-8122 (voice) or (703) 746-3465 (facsimile).

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Patent No. : 7,197,036 B2
Serial No. : 10/376,001
Inventor(s) : Craig
Issued : March 27, 2007
Title : **METHODS AND SYSTEMS FOR ROUTING MESSAGES BETWEEN A MATED PAIR OF ROUTING NODES WITH A DISTRIBUTED PROCESSING ARCHITECTURE AND ONE OR MORE REDUNDANTLY CONNECTED REMOTE APPLICATIONS**
Docket No. : **1322/117**

Re: Request for Reconsideration

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of 37 CFR 1.322 and/or 1.323.

A petition under 37 CFR 3.81 must be filed and granted to fulfill your request, to date, there is no petition on record to consider your request.

Furthermore, Assignees' and/ or Co-assignees' names and addresses (assignment data) printed in a patent are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Fee(s) Transmittal Form PTOL-85B. After payment of the issue fee, correction of assignment data submitted on the PTOL-85B can only be done by Certificate of Correction under 37 CFR 1.323, which requires petition under 37 CFR 3.81(b).

A request for a patent to be corrected to state the name of the assignee must:

A. state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent;
B. include a request for a certificate of correction under 37 CFR 1.323 along with the fee set forth in 37 CFR 1.20(a); and
C. include the processing fee set forth in 37 CFR 1.17(i).

If the request is granted, Certificates of Correction Branch will be notified that a Certificate of Correction may be issued.
See Manual of Patent Examining Procedure, Section 1481.01 (Rev. 3) (Oct. 2005).

Applicant has not included items B and or C above, accordingly, the request for Certificate of Correction to add or change the assignee data is dismissed.
Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	571-273-8300 ATTN: Office of Petitions

If, the petition under 37 CFR 1.182 (required fee currently $130), is filed and granted, the patentee would be entitled to a certificate of correction under 37 CFR 1.323 (required fee currently $100), which has been received.

Ernest C. White, *LIE*
For Mary F. Diggs (703) 308-9390 x 125
Decisions & Certificates
of Correction Branch
(703) **308-9390 x 122**

JENKINS, WILSON, TAYLOR & HUNT, P. A.
Suite 1200 UNIVERSITY TOWER
3100 TOWER BLVD.,
DURHAM NC 27707

ecw

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JENKINS, WILSON, TAYLOR & HUNT, P. A.
Suite 1200 UNIVERSITY TOWER
3100 TOWER BLVD.,
DURHAM NC 27707

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OFFICE OF PETITIONS

In re Patent No. 7,197,036	:	
Issue Date: March 27, 2007	:	
Application No. 10/376,001	:	ON PETITION
Filed: February 27, 2003	:	
Attorney Docket No. 1322/117	:	

This is a decision on the petition filed July 1, 2009, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to Terri Williams at (571) 272-2991. 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.

Chris Bottorff
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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Cindy S. Kaplan
P.O. BOX 2448
SARATOGA, CA 95070

Mail Date: 07/02/2010

Applicant	: Isidor Kouvelas	: DECISION ON REQUEST FOR
Patent Number	: 7644177	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/376,006	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/28/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1257** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

RAYMOND Y. CHAN
108 N. YNEZ AVE., SUITE 128
MONTEREY PARK CA 91754

In re Application of :
Edward LIU :
Application No. 10/376,016 : DECISION ON PETITION
Filed: March 3, 2003 : TO MAKE SPECIAL
For: **PORTABLE DVD PLAYER AND CONSOLE ARRANGEMENT** :

This is a decision on the petition filed August 19, 2005 under 37 CFR §1.102(d) to make the application special.

A grantable petition under 37 CFR §1.102(d) and MPEP §708.02, section II (Infringement), must be accompanied by the required fee and a statement alleging:

(1) that there is an infringing device or product actually on the market or method in use;
(2) that a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and
(3) that he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art. Further, Applicant must provide a copy of each of the references deemed most closely related to the subject matter encompassed by the claims if the references are not already of record.

Applicant's submission is deficient in regard to item (3) above in that it fails to include a copy of each reference deemed most closely related to the subject matter encompassed by the claims. Petitioner's statement that a copy of the references is provided is noted. However, there are no copies or listing thereof in the file record.

Accordingly, the Petition is **DENIED**.

The application file will await examination in its proper turn based on its effective filing date.

Any request for reconsideration must be filed within TWO MONTHS of the mailing date of this decision

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

RAYMOND Y. CHAN
108 N. YNEZ AVE., SUITE 128
MONTEREY PARK CA 91754

In re Application of :
Edward LIU :
Application No. 10/376,016 : DECISION ON PETITION
Filed: March 3, 2003 : TO MAKE SPECIAL
For: **PORTABLE DVD PLAYER AND CONSOLE ARRANGEMENT** :

This is a decision on the renewed petition filed February 3, 2006 under 37 CFR §1.102(d) to make the application special.

A grantable petition under 37 CFR §1.102(d) and MPEP §708.02, section II (Infringement), must be accompanied by the required fee and a statement alleging:

(1) that there is an infringing device or product actually on the market or method in use;
(2) that a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and
(3) that he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art. Further, Applicant must provide a copy of each of the references deemed most closely related to the subject matter encompassed by the claims if the references are not already of record.

Applicant's submission now includes a copy of each reference deemed most closely related to the subject matter encompassed by the claims.

Accordingly, the Petition is **GRANTED**.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

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P.O. Box 1450
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Paper No.

FITCH EVEN TABIN & FLANNERY
120 SOUTH LASALLE STREET
SUITE 1600
CHICAGO IL 60603-3406

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AUG 28 2009

OFFICE OF PETITIONS

In re Application of :
Baldwin et al. :
Application No. 10/376,030 : ON APPLICATION FOR
Filed: February 28, 2003 : PATENT TERM ADJUSTMENT
Attorney Docket No. 1410/67360 :

This is in response to the APPLICANT FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(b) filed February 23, 2009. Applicant submits that the correct patent term adjustment to be indicated on the patent is seven hundred fourteen (714) days, not four hundred one (401) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent[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 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

[1] This calculation is based on a projected issuance date of June 16, 2009. This calculation also takes into consideration that a request for continued examination (RCE) was first filed in this application on January 8, 2007. An RCE cuts-off their ability to accumulate any additional patent term for over three year pendency. The 1.702(b) period excludes any period consumed by continued examination requested by applicant under 35 U.S.C. 132(b).

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[2].

---

[2] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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FITCH EVEN TABIN & FLANNERY
120 SOUTH LASALLE STREET
SUITE 1600
CHICAGO, IL 60603-3406

Mail Date: 04/21/2010

Applicant	: Cheryl Baldwin	: DECISION ON REQUEST FOR
Patent Number	: 7595073	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/376,030	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/28/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **801** 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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875 THIRD AVENUE
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NEW YORK NY 10022

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OFFICE OF PETITIONS

In re Application of	:	
Nootbaar, Jens	:	
Application No. 10/376,036	:	ON PETITION
Filed: February 27, 2003	:	
Attorney Docket No. 101769-201/tesa AG 1583	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed August 1, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of 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 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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720 WATER STREET
TOLEDO OH 43604

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OFFICE OF PETITIONS

In re Application of	:	
David J. Dooley et al	:	
Application No. 10/376,043	:	ON PETITION
Filed: February 28, 2003	:	
Attorney Docket No. 01-73839	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 23, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed August 31, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on December 1, 2005.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Patent Publication.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12/12/08

TO SPE OF : ART UNIT 2825

SUBJECT : Request for Certificate of Correction for Appl. No.: 10376052 Patent No.: 7111270 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the COCIN document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code COCX.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

You can fax the Directors/SPE response to 571-270-9990

Certificates of Correction Branch

703-308-9390 ext. _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☑ Approved	All changes apply.
☐ Approved in Part	Specify below which changes do not apply.
☐ Denied	State the reasons for denial below.

Comments: _____

/Leigh M. Garbowski/ Primary Examiner AU2825

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CAMELBACK ESPLANADE II, THIRD FLOOR
2525 EAST CAMELBACK ROAD
PHOENIX, AZ 85016

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MAR 27 2008

OFFICE OF PETITIONS

In re Application of :
Venkataraman Srinivasan et al :
Application No. 10/376,055 : DECISION ON PETITION
Filed: February 26, 2003 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 12521-024 :

This is a decision on the petition, filed October 29, 2007, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on November 10, 2003. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request accompanies this decision on petition.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This application is being referred to Technology Center Art Unit 3627 for examination in due course.

Irvin Dingle
Petition Examiner
Office of Petitions

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/376,055	02/26/2003	Venkataraman Srinivasan	12521-024

CONFIRMATION NO. 9001

48276
TIFFANY & BOSCO
CAMELBACK ESPLANADE II, THIRD FLOOR
2525 EAST CAMELBACK ROAD
PHOENIX, AZ 85016

NONPUBLICATION RESCISSION LETTER

Date Mailed: 03/27/2008

Communication Regarding Rescission Of Nonpublication Request and/or Notice of Foreign Filing

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is WDAB.

If applicant rescinded the nonpublication request before or on the date of "foreign filing,"[1] then no notice of foreign filing is required.

If applicant foreign filed the application after filing the above application and before filing the rescission, and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv), 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

If a notice of foreign filing is required and is not filed within 45 days of the date of foreign filing, then the application becomes abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). In this situation, applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282. Questions regarding publications of patent applications should be directed to the patent application publication hotline at (703) 605-4283 or by e-mail pgpub@uspto.gov.

[1] Note, for purpose of this notice, that "foreign filing" means "filing an application directed to the same invention in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing".

19 JUL 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
www.uspto.gov

29737
SMITH MOORE LLP
P.O. Box 21927
Greensboro, NC 27420

In re Application of :
HÜBNER, Wolfgang :
U.S. Application No.: 10/376,105 :
Filing Date: 27 February 2003 :
Attorney Docket No.: 5003073-036US1 :
For: USE OF WATER-IN-WATER POLYMER DISPERSIONS FOR PREVENTION AND FIGHTING OF FIRES :

DECISION ON PETITION FOR REVIVAL UNDER 37 CFR 1.137(b)

This decision is in response to applicant's "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 08 July 2004 to revive international application PCT/EP01/09768 which was abandoned under 35 U.S.C. 371(d) and is hereby **GRANTED** as to the present U.S. national application as follows:

International application PCT/EP01/09768 became abandoned as to the United States of America for failure to pay the basic national fee by 23 February 2003. The filing of the present continuing application under 35 U.S.C. 111(a) is accepted as an appropriate response under 37 CFR 1.137(b). The $1,330.00 petition to revive fee has been paid. Applicants' statement satisfies the requirement of 37 CFR 1.137(b)(3).

International application PCT/EP01/09768 is being revived for purposes of continuity only and since continuity has been established by this decision reviving the international application, the international application is again abandoned in favor of the present continuing application number 10/376,105.

This application is being forwarded to the Office of Initial Patent Examination for further processing under 35 U.S.C. 111(a) with a filing date of 27 February 2003.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (703) 308-6457

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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SMITH MOORE LLP
P.O. BOX 21927
GREENSBORO NC 27420

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NOV 19 2004

OFFICE OF PETITIONS

In re Application of
Wolfgang Hubner
Application No. 10/376,105
Filed: February 27, 2003
Attorney Docket No. 5003073-036US1

: DECISION ON PETITIONS
: UNDER 37 CFR 1.78(a)(3)
: AND UNDER 37 CFR 1.55(c)

This is a decision on the petitions under 37 CFR 1.78(a)(3) and 37 CFR 1.55(c), filed September 14, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of PCT application (No. PCT/EP01/09768, filed August 23, 2001), and under 35 U.S.C. § 119(a)-(d) for the benefit of a prior-filed foreign application (DE100 41 394.3, filed August 23, 2000), as set forth in the concurrently filed amendment and Application Data Sheet, respectively.

The petitions are **GRANTED**.

As to the benefit claim under 37 CFR 1.78(a)(3):

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending application was filed on February 27, 2003, and was pending at the time of filing of the instant petition. A reference to the above-noted, PCT 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), and in an Application Data Sheet as provided by 37 CFR 1.76.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the above-noted PCT application is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the above-noted PCT 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 and 365(c). Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §§ 120 and 365(c) to the above-noted PCT application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

As to the benefit claim under 37 CFR 1.55(c):

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;

(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date;

(3) the surcharge as set forth in 37 CFR 1.17(t);

(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional. (The Commissioner may require additional information where there is a question whether the delay was unintentional.); and

(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

The above-identified pending nonprovisional application was filed on February 27, 2003, which is after November 29, 2000, and the intermediate PCT application was filed within 12 months of August 23, 2000, which is the earliest filing date of the foreign application to which benefit is claimed. The Application Data Sheet filed on September 14, 2004, and the declaration filed on July 15, 2003, also identify the foreign application for which priority is claimed. Petitioner has paid the $ 1,330.00 surcharge. Lastly, petitioner has provided an adequate statement of unintentional delay.

All requirements being met, the petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority under 35 U.S.C. § 119(a)- (d) is granted.

A corrected Filing Receipt, which includes the priority claim to the PCT application, and the foreign priority claim, accompanies this decision on petition.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) and 37 CFR 1.55(c) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§ 120, 365(c) and 119(a)-(d) and 37 CFR 1.78(a)(1) and (a)(2) and 37 CFR 1.55 must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

The Office reminds petitioner that a certified copy of the foreign patent document has not been received and should be submitted prior to issuance.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3211.

This matter is being referred to Technology Center Art Unit 1714 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. §§ 120 and 365(c) to the PCT application and for consideration of the claim for priority under 35 U.S.C. § 119 for the benefit of the foreign application as set forth in the concurrently filed amendment and Application Data Sheet, respectively.

Frances Hicks
Lead Paralegal
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

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Paper No.

Thomas F. Lenihan
TEKTRONIX, INC.
M/S 50-LAW
P.O. Box 500
Beaverton, OR 97077-0001

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FEB 10 2005

OFFICE OF PETITIONS

In re Application of :
Blok et al. : DECISION ON
Application No. 10/376,108 : PETITION
Filed: February 26, 2003 :
Attorney Docket No. 7195-US1 :

This is a decision on the "Petition to Revive Unintentionally Abandoned Application in Accordance With 37 C.F.R. 1.137(b)," filed February 1, 2005.

The petition under § 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to timely reply to the non-final Office action mailed May 11, 2004. This Office action set forth a shortened statutory period for reply of three (3) months, with extensions of time obtainable under § 1.136(a). No reply having been filed and no extensions of time obtained, the above-identified application became abandoned on August 12, 2004. A Notice of Abandonment was mailed on November 30, 2004.

Petitioner asserts that the Office action was not received. However, petitioner submits no evidence to overcome the presumption, supported by the record, that the non-final Office action was properly mailed and received at the correspondence address of record.

Rather, petitioner asserts that the delay in responding was unintentional. The instant petition includes not only a statement of unintentional delay, but also the required reply in the form of an amendment and payment of the $1,500 petition fee. No terminal disclaimer is required on this petition.

The application file is being forwarded to Technology Center AU 2863 for consideration by the examiner of the amendment filed February 1, 2005.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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MARGER JOHNSON & McCOLLOM, P.C.
1030 S.W. Morrison Street
Portland OR 97205

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MAR 0 9 2004

OFFICE OF PETITIONS

Applicant: Chae et al.
Appl. No.: 10/376,114
Filing Date: February 28, 2003
Title: MULTI-CHIP SYSTEM HAVING A CONTINUOUS BURST READ MODE OF OPERATION
Attorney Docket No.: 12053-US
Pub. No.: US 2004/0006658 A1
Pub. Date: January 8, 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 26, 2004.

The request is DISMISSED.

The instant request is that the application be republished because the patent application publication contains a typographical error on the front page of the publication as the second inventor's name "Heung-Soo IM" is misspelled as "Heung-Soon IM".

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." **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 front page of the patent application publication, wherein the second inventor's name is misspelled is an Office mistake, but it is not a material error. The mistake is a minor typographical. The mistake does not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

To avoid this type of problem in the future, applicant's 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)

[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).

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

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5 COLUMBIA CIRCLE
ALBANY, NY 12203

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AUG 0 9 2005

OFFICE OF PETITIONS

In re Application of :
Anthony M. Courtney :
Application No. 10/376,128 : ON PETITION
Filed: February 28, 2003 :
Attorney Docket No. 1679.012 :

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed February 24, 2005.

The petition is **GRANTED**.

The application became abandoned for failure to pay the issue fee on or before February 17, 2005. Receipt is acknowledged of the requisite issue fee on February 24, 2005, using a Certificate of Mailing or Transmission under 37 CFR 1.8 dated February 22, 2005.

The application is being referred to Publishing Division.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing at Publishing Division should be directed to (703) 305-8283.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Paper No. 4

GODFREY & KAHN SC
780 NORTH WATER STREET
MILWAUKEE WI 53202

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JUL 17 2003

OFFICE OF PETITIONS

In re Application of :
Scarbrough :
Application No. 10/376,130 : DECISION ON PETITION
Filed: February 28, 2003 :
Attorney Docket No. 002672-0158 :

This is a decision on the petition filed June 30, 2003, which is being treated as a petition under 37 CFR 1.53(e), to accord the above-identified application a filing date of February 28, 2003, with an indication that 30 sheets of drawings were present on filing.

The petition is GRANTED.

In support of the petition, submitted in reply to the "Notice of Omitted Items" mailed May 5, 2003, which indicated that Figure 4a described in the specification was missing, petitioner includes a copy of a postcard receipt itemized with respect to the instant application papers and bearing the USPTO date stamp of February 28, 2003, and asserts that Figure 4a was among the application papers received by the USPTO February 28, 2003. The receipt confirms that 30 sheets of drawings were among the instant application papers received at the USPTO. However, only 29 sheets are present in the file. Per MPEP 503, as an adequately itemized postcard receipt will serve as *prima facie* evidence of receipt of all items listed thereon, the petition is granted. The Notice of May 5, 2003, was mailed in error and is **vacated**. The error is regretted.

As no fee is owed due to the USPTO error, the $130 petition fee has not been assessed.

The application file is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of February 28, 2003, using the sheet of drawing containing Figure 4a filed June 30, 2003, and an indication that 30 sheets of drawings were present on filing..

Telephone inquiries concerning this decision may be directed to the undersigned at (703) 305-1820.

Brian Hearn
Special Projects Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : April 6, 2006

TO SPE OF : ART UNIT 3747 (S.P.E. Henry Yuen)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/376134 Patent No.: 6,938,608

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**.

In the drawings, under label "Fig. 3", reference 20 was added.

STACY 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: _____

Stephen K. Cronin
Primary Examiner
SPE 3747

SPE

5/30/06

Art Unit

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211 NORTH ROBINSON
OKLAHOMA CITY OK 73102

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AUG 14 2007

OFFICE OF PETITIONS

In re Application of :
James F. Nichols etal :
Application No. 10/376,146 : DECISION GRANTING PETITION
Filed: February 28, 2003 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 2966/1 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 22, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Nonfinal Rejection of May 11, 2006, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Technology Center AU 2622.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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STEVEN WESEMAN
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CABOT MICROELECTRONICS CORPORATION
870 NORTH COMMONS DRIVE
AURORA, IL 60504

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JUL 21 2006
OFFICE OF PETITIONS

In re Application of :
De Rege Thesauro et al. :
Application No. 10/376,172 : ON PETITION
Filed: February 27, 2003 :
Attorney Docket Number: :
00012X221458 :

This is a decision on the Petition to Revive the Application based upon unintentional abandonment, filed April 4, 2006.

The petition is **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance and Issue Fee Due ("Notice"), mailed December 21, 2005. The Notice set a non-extendable three (3) month period for reply. No reply having been received, the application became abandoned March 22, 2006. The mailing of this Decision precedes the mailing of a Notice of Abandonment.

With the instant petition Applicant has submitted the issue fee.

This application is being referred to Publishing Division for processing into a patent.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,888,623	2005-05-03	10/376,184	2003-02-26	

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	/Pavinderjit S. Athwal/	Date (YYYY-MM-DD)	2009-10-08
Name	Pavinderjit S. Athwal	Registration Number	51029

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. 6888623
Issue Date: May 3,2005
Application No. 10376184
Filed: February 26,2003
Attorney Docket No. DYNAMIC-1

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed October 8,2009 ,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 October 8,2009 . 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.

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)
6669757	2003-12-30	10376206	2003-02-26	TRET-01

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	/J. Dwight Poffenberger, Jr./	Date (YYYY-MM-DD)	2008-07-25
Name	J. Dwight Poffenberger, Jr.	Registration Number	35324

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6669757
Issue Date: December 30,2003
Application No. 10376206
Filed: February 26,2003
Attorney Docket No. 1749.003US1

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed July 25,2008 ,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 July 25,2008 . 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

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

MAY - 6 2003

UR
PAPER NO. 3

In re Application of
Peter Tung
Serial Number: 10/376,210
Filed: February 27, 2003
For: STAGED HEAT AND MASS TRANSFER APPLICATIONS

DECISION ON PETITION UNDER M.P.E.P. 708.02, VI

This is in response to the petition filed February 27, 2003, requesting that the above-identified application be granted Special Status under Section 708.02 (VI) of the MPEP and 37 CFR 1.102(c).

The petition has been considered and found to comply with the requirements set forth under the above-noted section. Accordingly the petition is granted.

The petition is GRANTED.

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Peter Tung
63 Templer Drive
Ancaster, ON, L9G 3X7
CANADA

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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NIXON PEABODY LLP
300 S. Riverside Plaza
16th Floor
CHICAGO, IL 60606

Mail Date: 04/21/2010

Applicant	: Wayne H. Rothschild	: DECISION ON REQUEST FOR
Patent Number	: 7618323	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/376,216	: 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 **597** 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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U.S. Philips Corporation
Corporate Patent Counsel
580 White Plains Road
Tarrytown, NY 10591

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AUG 25 2006

OFFICE OF PETITIONS

In re Application of

Van Der Enden, et al. :

Application No. 10/376,218 : DECISION ON PETITION

Filed: February 27, 2003 :

Attorney Docket No. PHN 16,269B

This is a decision on the petition under 37 CFR 1.137(b), filed July 5, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to file a proper reply in a timely manner to the final Office action mailed October 12, 2004, which set a shortened statutory period for reply of three (3) months from its mailing date. No response was received within the allowable period, and the application became abandoned on January 13, 2005. A Notice of Abandonment was mailed June 29, 2005.

The Request for Continued Examination filed July 5, 2006, is noted and made of record.

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 address as cited on the petition differs from the correspondence address of record. Although a courtesy copy of this decision is being mailed to the address as cited on the petition, all future correspondence will be mailed solely to the address of record until appropriate written instructions to the contrary are received.

The application is being forwarded to Technology Center 2600, GAU 2653 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

cc:
Dicran Halajian
Thorne & Halajian
Applied Technology Center
111 West Main Street
Bay Shore, NY 11706

ZFW
DAC

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U.S. Philips Corporation
Corporate Patent Counsel
580 White Plains Road
Tarrytown, NY 10591

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AUG 25 2006

OFFICE OF PETITIONS

In re Application of

Van Der Enden, et al.

Application No. 10/376,218

Filed: February 27, 2003

Attorney Docket No. PHN 16,269B

: DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed July 5, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to file a proper reply in a timely manner to the final Office action mailed October 12, 2004, which set a shortened statutory period for reply of three (3) months from its mailing date. No response was received within the allowable period, and the application became abandoned on January 13, 2005. A Notice of Abandonment was mailed June 29, 2005.

The Request for Continued Examination filed July 5, 2006, is noted and made of record.

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 address as cited on the petition differs from the correspondence address of record. Although a courtesy copy of this decision is being mailed to the address as cited on the petition, all future correspondence will be mailed solely to the address of record until appropriate written instructions to the contrary are received.

The application is being forwarded to Technology Center 2600, GAU 2653 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

cc:
Dicran Halajian
Thorne & Halajian
Applied Technology Center
111 West Main Street
Bay Shore, NY 11706

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Paper No. 6

T. ANDREW CURRIER
LANG MICHENER, BCE PLACE
181 BAY ST., SUITE 2500
TORONTO, ON M5J 2T7
CANADA

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JUL 16 2003

OFFICE OF PETITIONS

In re Application of	:
Michael Andrew Wildish et al	:
Application No. 10/376,249	: DECISION GRANTING STATUS
Filed: March 3, 2003	: UNDER 37 CFR 1.47(A)
For: SYSTEM AND METHOD OF LOOKING	:
UP AND VALIDATING A DIGITAL	:
CERTIFICATE IN ONE PASS	:

This is in response to the petition under 37 CFR 1.47(a), filed June 9, 2003.

The petition is granted.

Petitioner has shown that the non-signing inventors have refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventors at the addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

Telephone inquiries regarding this decision should be directed to Petitions Examiner Wan Laymon at (703) 306-5685.

This application is being forwarded to 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

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ALEXANDRIA, VA 22313-1450
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MICHAEL ANDREW WILDISH
33 SCHOONER LANE
SCARBOROUGH, ONTARIO M1C 5J2
CANADA

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JUL 16 2003

OFFICE OF PETITIONS

In re Application of
Wildish; Ansell; and Crerar
Application No. 10/376,249
Filed: March 3, 2003
For: SYSTEM AND METHOD OF LOOKING UP AND VALIDATING A DIGITAL CERTIFICATE IN ONE PASS

Dear Mr. Wildish:

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:
T. ANDREW CURRIER
LANG MICHENER, BEC PLACE
181 BAY ST., SUITE 2500
TORONTO, ON M5J 2T7
CANADA

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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MICHAEL C. CRERAR
398 EGLINGTON AVENUE EAST
SUITE 305
TORONTO, ONTARIO M4P 2P4
CANADA

COPY MAILED

JUL 16 2003

OFFICE OF PETITIONS

In re Application of
Wildish; Ansell; and Crerar
Application No. 10/376,249
Filed: March 3, 2003
For: SYSTEM AND METHOD OF LOOKING UP AND VALIDATING A DIGITAL CERTIFICATE IN ONE PASS

Dear Mr. Crerar:

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:
T. ANDREW CURRIER
LANG MICHENER, BEC PLACE
181 BAY ST., SUITE 2500
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LANG MICHENER LLP
BCE PLACE
181 BAY ST., SUITE 2500
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OFFICE OF PETITIONS

In re Application of :
Michael Andrew Wildish et al :
Application No. 10/376,249 : ON PETITION
Filed: March 3, 2003 :
Attorney Docket No. 57522-2/KB :

This is a decision on the petition under 37 CFR 1.137(b), filed June 21, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 18, 2006, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on December 19, 2006.

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 person signing the instant petition also requests to change the correspondence's name. There is, however, no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2134 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Keith Bird
Lang Michener LLP
181 Bay Street, Suite 2500
P.O. Box 747
Toronto, Ontario, Canada M5J 2T7

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FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

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OFFICE OF PETITIONS

In re Application of :
Solar, et al. : DECISION ON PETITION
Application No. 10/376,324 :
Received: March 3, 2003 :
Docket No.: 6530.0260-01 :

This is a decision on the petition under 37 CFR 1.181, filed November 2, 2006, to withdraw the holding of abandonment.

This application was held abandoned for failure to timely submit a proper reply to the non-final Office action mailed April 3, 2006. Notice of Abandonment was mailed October 20, 2006.

The petition is hereby **GRANTED**.

Petitioner asserts non-receipt of the Office communication mailed March 3, 2006.

In the absence of any irregularity in the mailing of the communication, there is a strong presumption that the communication was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the communication was not in fact received. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. *See*, MPEP 711.03(c). The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

In support of the petition, petitioners have provided a copy of the docket record where the Office communication would have been

entered had it been received along with a statement from petitioners that a search of the docket record and file jacket indicated that the Office communication was not received.

In view of the evidence presented, the Notice of Abandonment is hereby **VACATED** and the holding of abandonment is **WITHDRAWN**.

The application file is being forwarded to the technical support staff of Group Art Unit 1732 for mailing of new Notices. The time period for response will be set to run from the date the new Office communication is mailed.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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HUNTON & WILLIAMS LLP
INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET, N.W.
SUITE 1200
WASHINGTON DC 20006-1109

COPY MAILED

AUG 3 1 2004

OFFICE OF PETITIONS

In re Application of
Santalo et al.
Application No. 10/376,330
Filed: March 3, 2003
For: SYSTEM AND METHOD FOR MANAGING ACCOUNT RECEIVABLES

: DECISION FOR GRANTING
: WITHDRAWAL OF PATENT
: APPLICATION PUBLICATION

This is in response to the petition under 37 CFR 1.182, filed October 15, 2003, and to the request filed July 7, 2004, requesting expungement of the original drawings (Figures 6-8) filed with the application and that the replacement drawings filed on October 15, 2003 replace Figures 6-8 for the application. Petitioner in effect, requests that the above-identified application be treated as an application that has **not** been published pursuant to 35 U.S.C. § 122(b), as the Figures contain confidential medical information.

The petition and request is **granted** to the extent indicated below:

(1) The USPTO will withdraw the patent application publication for the above-identified application from its internal and external search databases for patent application publications;

(2) The USPTO's Patent Application Location and Monitoring (PALM) and Patent Application Information Retrieval (PAIR) Systems will be modified to indicate that copies of and access to the above-identified application are **not** to be provided pursuant to 37 CFR 1.14(c)(2) and 1.14(e)(2);

(3) The publication number will be added to a list of withdrawn publications on the USPTO web site; and

(4) The USPTO will notify external database providers and its patent data exchange partners which are intellectual property offices of the withdrawal.

The above-identified application has been published under 35 U.S.C. § 122(b), however the application, as originally filed, contained confidential personal information about third parties such as names, social security numbers, medical records and addresses of individuals. On October 15, 2003, well before the application was forwarded to be printed, petitioner filed a petition under 37 CFR 1.182 and replacement drawings, asking that the new drawings be used

for the publication instead of the original drawings. The replacement sheets of drawings did not comply with 37 CFR 1.84 because, for example, the title and other identifying information is on the drawing instead of in the margin, the drawings are not legible (the character of the lines is not clear), shading is not used appropriately (there is excess black space in figure 8, for example), the letters, numbers and reference characters are unclear. See 37 CFR 1.84(c), (l), (m), and (p) for example. In addition, the replacement drawings did not comply with 37 CFR 1.121(d) because the sheets of drawings are not labeled replacement sheets. Although the originally-filed drawings could have been objected to on the same basis, and no objection was made to the replacement drawings, the replacement drawings were not used by the printer, and the originally-filed drawings, with the confidential information, were used for publishing the patent application. As a result, petitioner has requested that the publication be removed from the USPTO's website.

Applicant is required to submit a replacement set of drawings in compliance with 37 CFR 1.84 and 1.121(d) without the confidential information so that the entire set of originally submitted drawings can be removed from the record and replaced with the new set. The replacement set of drawings must be labeled "Replacement Sheets." See 37 CFR 1.121(d). The failure to reply to this requirement for information within ONE MONTH or THIRTY DAYS, whichever is longer, of the mailing date of this requirement will result in abandonment of the application. This time period may be extended under the provisions of 37 CFR 1.136.

Once the replacement set of drawings are filed, the originally-filed drawings will be "closed" so as to no longer appear as part of the Image File Wrapper for the application and the application will be rescheduled for publication.

Telephone inquiries specific to this decision should be directed to Mark Polutta at (703) 308-8122 or Joni Chang at (703) 308-3858.

Robert W. Bahr
Senior Patent Attorney
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

HUNTON & WILLIAMS LLP
INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET, N.W.
SUITE 1200
WASHINGTON DC 20006-1109

MAILED

JUN 10 2009

OFFICE OF PETITIONS

In re Application of	:	
Santalo et al.	:	
Application No. 10/376,330	:	RESPONSE TO PETITION
Filed: March 3, 2003	:	
Attorney Docket No. 63158.000002	:	

This is a response to the petition, filed May 5, 2009, which is treated as a petition under 37 CFR 1.59(b) to expunge information from the above identified application.

The petition is **granted**.

Pursuant to a petition decision of August 31, 2004, the original drawings in the above identified application were expunged and replaced by substitute drawings submitted September 30, 2004. The substitute drawings redacted confidential personal information appearing in the original drawings, but otherwise did not change the original drawings. The personal information also appeared on drawings filed June 19, 2003 as a part of a response to a Notice to File Missing Parts of Nonprovisional Application mailed April 29, 2003. However, the drawings of June 19, 2003 were not previously expunged with the original drawings, and petitioner now requests that they be expunged.

Similar to the original drawings, the drawings of June 19, 2003 will be "closed" so as to no longer appear as part of the Image File Wrapper for the above identified application.

Telephone inquiries concerning this communication should be directed to the undersigned at (571)272-6692.

Christopher Bottorff
Petitions Examiner
Office of Petitions

OIPE
AUG 29 2005
PATENT & TRADEMARK OFFICE

DAC
JRW

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

RANDALL C. SMITH

Serial No. 10/376,338 (066456.0107)

Filed March 3, 2003

For: IMPROVED POWER SUPPLY FOR GUITAR AMPLIFIER

Art Unit 2817

Examiner Patricia T. Nguyen

Customer No. 23494

Mail Stop Petition
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

CERTIFICATE OF MAILING OR TRANSMISSION UNDER 37 CFR 1.8

I hereby certify that the attached document is being deposited with the United States Postal Service with sufficient postage for First Class Mail in an envelope addressed to Director of the United States Patent and Trademark Office, P.O. Box 1450,, Alexandria, VA 22313-1450 or is being facsimile transmitted on the date indicated below:

8-26-05

Jay M. Cantor, Reg. No. 19,906

PETITION FOR ACTION ON PETITION

Sir:

The Commissioner is hereby petitioned to act on the petitions previously filed in the subject application. No fee is believed to be required.

The facts are that a Petition to Withdraw Holding of Abandonment and Change of Address were faxed to the PTO and a copy of those papers was filed with a second Petition on November 19, 2004 in which the facts leading to the alleged abandonment were set forth. A copy of that Petition is attached hereto with attachment and PTO mail room acknowledgement.

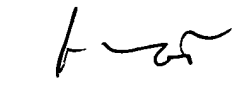
When nothing had been received from the PTO by March, 2005, the undersigned made several calls to the PTO and finally, on 2 March 2005, Patricia T. Nguyen, the examiner, e-mailed a copy of the Notice of Allowability to the undersigned, copy attached.

On March 3, 2005, the undersigned discussed the matter with Bob Pascal, the SPE, who faxed a copy of the Notice of Allowance to the undersigned, copy attached.

Also, on March 3, 2005, the undersigned faxed to Mr. Bob Pascal, a letter with a copy of the BakerBotts Docket Report, copy attached, but received no confirmation thereof. Mr. Pascal advised the undersigned that he would attempt to resolve the matter and finally, after several weeks, advised the undersigned that he has been unsuccessful and that the Petition was now being handled by Ms. Lissi Marquis?. The undersigned has called the number given to him by Mr. Pascal for Ms. Marquis on several occasions and has been connected to an answering machine and has never received a call back, though leaving a message.

It is therefore respectfully requested that action be taken on the Petition promptly and that a new Notice of Allowance be issued to the correct address so that the issue fee can be promptly paid. Also, it is believed that the period of viability of a patent issuing for the subject application should be extended for the period of delay at the PTO.

Respectfully submitted,



Jay M. Cantor
(301)- 424-0355 (after 9/21)
(858-793-1245 (until 9/20)

OIPE
AUG 29 2005
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

RANDALL C. SMITH

Serial No. 10/376,338 (066456.0107)

Filed March 3, 2003

For: IMPROVED POWER SUPPLY FOR GUITAR AMPLIFIER

Art Unit 2817

Examiner Patricia T. Nguyen

Customer No. 23494

Mail Stop Petition
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

CERTIFICATE OF MAILING OR TRANSMISSION UNDER 37 CFR 1.8

I hereby certify that the attached document is being deposited with the United States Postal Service with sufficient postage for First Class Mail in an envelope addressed to Director of the United States Patent and Trademark Office, P.O. Box 1450,, Alexandria, VA 22313-1450 or is being facsimile transmitted on the date indicated below:

_____

_____
Jay M. Cantor, Reg. No. 19,906

PETITION TO WITHDRAW HOLDING OF ABADONMENT BASED ON FAILURE TO RECEIVE OFFICE ACTION (MPEP 711.03(c)II and 37 CFR 1.181)

Sir:

Attached hereto are to originals of papers previously sent to the Patent and Trademark Office by telefax. The attached papers are being sent out of an abundance of caution to insure receipt since no confirmation of receipt by the PTO has ever been received.

Respectfully submitted,

Jay M. Cantor
Reg. No. 19906
(301) 424-0355
(858) 793-1245

OIPE
AUG 29 2005
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

RANDALL C. SMITH

Serial No. 10/376,338 (066456.0107)

Filed March 3, 2003

For: IMPROVED POWER SUPPLY FOR GUITAR AMPLIFIER

Art Unit 2817

Examiner Patricia T. Nguyen

Customer No. 23494

Mail Stop Petition
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

CERTIFICATE OF MAILING OR TRANSMISSION UNDER 37 CFR 1.8

I hereby certify that the attached document is being deposited with the United States Postal Service with sufficient postage for First Class Mail in an envelope addressed to Director of the United States Patent and Trademark Office, P.O. Box 1450,, Alexandria, VA 22313-1450 or is being facsimile transmitted on the date indicated below:

_____

_____
Jay M. Cantor, Reg. No. 19,906

PETITION TO WITHDRAW HOLDING OF ABADONMENT BASED ON FAILURE TO RECEIVE OFFICE ACTION (MPEP 711.03(c)II and 37 CFR 1.181)

Sir:

Responsive to the Notice of Abandonment dated October 21, 2004, applicant, through his attorney, petitions for withdrawal of the abandonment of the subject application and transmittal of the new Notice of Allowance in accordance with the above referenced MPEP and 37 CFR sections. No fee is stated to be required.

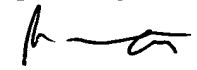
The facts are that the undersigned left Baker Botts, LLP, the attorneys of record, on October 31, 2003, wherein the undersigned was principal attorney and retained the inventor herein as his client. The undersigned inadvertently failed to file a change of

address and, accordingly, the Office action dated March 23, 2004 was received at Baker Botts, LLP and transmitted by them to the undersigned who prepared and filed a response thereto on about May 17, 2004, again failing to file an address change. The above noted Notice of Abandonment was received at Baker Botts and faxed to the undersigned shortly after receipt by Baker Botts, LLP. The undersigned reviewed his records and found no indication of receipt of the Notice of Allowance. The undersigned then communicated with James Arpin, Esq., the only patent counsel at the Baker Botts, LLP Washington, D.C. Office relative to receipt of the Notice of Allowance. Mr. Arpin advised the undersigned that there was no record of receipt of the Notice of Allowance at his office after a review of his Office records. A copy of the e-mail from Mr. Arpin confirming this fact is attached.

Since Mr. Arpin is the only patent attorney in the Baker Botts, LLP Washington, D.C. office and since all PTO mail must therefore pass through him or his office, it is clear that the Notice of Allowance was never received by Baker Botts, LLP and, of course, never received by the undersigned.

In view of the above, it is respectfully requested that a new Notice of Allowance be transmitted to the undersigned at his address as noted in the attached change of address request.

Respectfully submitted,



Jay M. Cantor
Reg. No. 19906
(301) 424-0355

OIPE
AUG 29 2005
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

RANDALL C. SMITH

Serial No. 10/376,338 (066456.0107)

Filed March 3, 2003

For: IMPROVED POWER SUPPLY FOR GUITAR AMPLIFIER

Art Unit 2817

Examiner Patricia T. Nguyen

Customer No. 23494

Mail Stop Petition
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

CERTIFICATE OF MAILING OR TRANSMISSION UNDER 37 CFR 1.8

I hereby certify that the attached document is being deposited with the United States Postal Service with sufficient postage for First Class Mail in an envelope addressed to Director of the United States Patent and Trademark Office, P.O. Box 1450,, Alexandria, VA 22313-1450 or is being facsimile transmitted on the date indicated below:

_____

_____
Jay M. Cantor, Reg. No. 19,906

CHANGE OF ADDRESS

Sir:

Please address all future communications to the following:

Jay M. Cantor, Esq.
9 Overpond Court
Potomac, Maryland 20854
Telelphone 301-424-0355
Telefax 301-279-0038

Respectfully submitted,

Jay M. Cantor
Reg. No. 19906

OIPE
AUG 29 2005
PATENT & TRADEMARK OFFICE

Subj:	**RE: Smith application**
Date:	11/4/2004 3:07:51 PM Eastern Standard Time
From:	Jim.Arpin@bakerbotts.com
To:	JAYCANTOR@aol.com
Sent from the Internet (Details)	

Jay:

We cannot find the NOA. We also have nothing in our incoming mail log between June 16, 2004, and July 5, 2004, indicating that it was received. The last entry in CPI for this application noted the transfer of the file last November. I have checked my chron file and I find no correspondence forwarding the NOA to you. David Fulton's e-mail directory has been erased, and I cannot look to see whether he scanned and sent the NOA to you or reported its receipt to you.

Jim

-----Original Message-----
From: JAYCANTOR@aol.com [mailto:JAYCANTOR@aol.com]
Sent: Thursday, November 04, 2004 2:04 PM
To: jim.arpin@bakerbotts.com
Subject: Smith application

Jim:
Have you located the Notice of Allowance or any indication of receipt? If not, I would like to prepare the appropriate papers for payment and revival ASAP since I am going on a one month vacation on the 22nd.

Jay Cantor

On the date stamped here, the following paper was received in the Patent and Trademark Office in the below listed application:

Petition

Inventor(s): Randall C. Smith
Serial No. 09/376,338
Filed March 3, 2003
For: IMROVED POWER SUPPLY FOR GUITAR.
Docket Number: 066456.0107

Law Offices of Jay M. Cantor
Intellectual Property Matters
9 Overpond Court
Potomac, Maryland 20854

March 3, 2005

Telephone 301-424-0355
Fax 301-279-0038
e-mail: jaycantor@aol.com

Mr. Bob Pascal
SPE Art Unit 2817
United States Patent
and Trademark Office
Alexandria, VA

Re: SN 10/376,338

Dear Mr. Pascal:

Attached is the BakerBotts, LLP Docket Report by due date. Only two application appeared with due date of September 10, 2004, neither of which is the subject application. The listed applications have been redacted because they relate to other application.

Please be sure that the new Notice of Allowance is mailed in accordance with the change of address filed with the Petition, it being the above address.

Very truly yours,

Jay M. Cantor

JMC:a
Enclosure

Country Application

Client Matter Number: 066456.0107 **Country:** US **SubCase:**

Client: MESA / BOOGIE, LTD. United States of America

Client Reference No:

Case Type: PRO **Resp.Office:** DC

Application Status: Transfer **Status Date:**

Application Number: 60/361720 **Filing Date:** 06-Mar-2002

Publication Number: **Publication Date:**

Patent Number: **Issue Date:**

Parent/PCT Number: **Parent/PCT Date :**

Parent Issue Number: **Parent Issue Date :**

Tax Schedule: LE **Expiration Date:**

Confirmation #: **Patent Term Adjustment:** 0

Agent: **Agent Reference #:**

PTO Customer Number: **Priority Number:**

Historical Family No.: **New Family Number:**

Matter: **Claims:** 0

Annuity Client?: Yes

Tax Start Date:

Remarks: STATUS: Pending with USPTO.

Transferred to Jay M. Cantor on 7-Nov-03.

List Of Actions

Action(s) Due	Due Date		Action Taken
Application Mailed	06-Mar-2002	Due Date	06-Mar-2002
6 mo. Foreign Filing Reminder	06-Sep-2002	Due Date	06-Sep-2002
6 mo. U.S. Filing Reminder	06-Sep-2002	Due Date	06-Sep-2002
9 mo. U.S. Filing Reminder	06-Dec-2002	Due Date	06-Dec-2002
Per BReich 9Sep02 we typically do not file foreign for this client. Emailed filing reminder to Breich 6Dec02.			
Decision/No Foreign Filing	09-Dec-2002	Due Date	09-Dec-2002
Per 9Dec02 email from Barbara Reich, we will not file foreign.			
U.S. Filing Due	06-Feb-2003	Reminder	06-Feb-2003
File Application	27-Feb-2003	Due Date	27-Feb-2003
Final deadline to convert provisioal 6Mar03			
U.S. Filing Due	06-Mar-2003	Final	03-Mar-2003
Request for Status Filed	14-Jul-2003	Due Date	14-Jul-2003
Transfer of File	07-Nov-2003	Due Date	07-Nov-2003
Transferred to Jay M. Cantor on 7-Nov-03.			

Created By: DFULTON
User ID: DFULTON
Date Created: 18-Mar-2002
Last Update: 07-Nov-2003

Best Available Copy

DC Docket Report by Due Date

CaseNumber:	Indicator:	ActionType:	AppiNumber:	Client:	Responsible Person:	RespOffice
Country:	DueDate:	ActionDue:		Owner:	Attorneys:	
[redacted]	Reminder	US-3 Month Office Action	[redacted]	[redacted]	[redacted]	DC
US	9/10/2004	1st Extension				

☐ Docket Call-Up for
☐ Action Completed
☐ Noted / Date Taken

Title: [redacted]

Remarks: [redacted]

[redacted]	Due Date	US-Final Office Action	[redacted]	[redacted]	[redacted]	DC
US	9/10/2004	3 Month Notice of Appeal				

☐ Docket Call-Up for
☐ Action Completed
☐ Noted / Date Taken

Title: [redacted]

Remarks: [redacted]

[redacted]	Reminder	[redacted]	[redacted]	[redacted]		[redacted]
US	9/11/2004					

☐ Docket Call-Up for
☐ Action Completed
☐ Noted / Date Taken

Title: [redacted]

Remarks:

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

Fax Cover Sheet

Date: 02 Mar 2005

To: Jay Cantor	**From:** Patricia T. Nguyen
Application/Control Number: 10/376,338	**Art Unit:** 2817
Fax No.: 301 279 0038	**Phone No.:** (571) 272-1768
Voice No.: 202-639-7700	**Return Fax No.:**
Re:	**CC:**

☐ **Urgent** ☐ **For Review** ☐ **For Comment** ☐ **For Reply** ☒ **Per Your Request**

Comments:
Following are 3 pages of the Notice of Allowability and Detailed Action that you requested.

Number of pages __ including this page

STATEMENT OF CONFIDENTIALITY

This facsimile transmission is an Official U.S. Government document which may contain information which is privileged and confidential. It is intended only for use of the recipient named above. If you are not the intended recipient, any dissemination, distribution or copying of this document is strictly prohibited. If this document is received in error, you are requested to immediately notify the sender at the above indicated telephone number and return the entire document in an envelope addressed to:

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Notice of Allowability	Application No. 10/376,338	Applicant(s) SMITH, RANDALL C.	
	Examiner Patricia T Nguyen	Art Unit 2817	

-- The MAILING DATE of this communication app ars on th cover sh et with the correspond nc address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to *amendment filed 5/19/2004*.

2. ☒ The allowed claim(s) is/are *1 and 3-14*.

3. ☒ The drawings filed on *03 March 2003* are accepted by the Examiner.

4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
   a) ☐ All b) ☐ Some* c) ☐ None of the:
      1. ☐ Certified copies of the priority documents have been received.
      2. ☐ Certified copies of the priority documents have been received in Application No. _____.
      3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

   * Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.

6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
   (a) ☐ Including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
   (b) ☐ Including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

   Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).

7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)
1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____.
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

03/02/05 WED 09:16 FAX

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

PTN
June 9, 2004

Patricia Nguyen

PATRICIA NGUYEN
PRIMARY EXAMINER

facsimile transmittal

To: Jay M. Cantor Fax: (301) 279-0038

From: Bob Pascal Date: 3/3/05

Re: SN 10/376,338 Pages: 4 (including this cover)

CC:

Urgent X For Review Please Comment ☐ Please Reply ☐ Please Recycle

Notes

Bob Pascal
SPE Art Unit 2817
(571) 272-1769

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

NOTICE OF ALLOWANCE AND FEE(S) DUE

24735 7590 06/16/2004

BAKER BOTTS LLP
C/O INTELLECTUAL PROPERTY DEPARTMENT
THE WARNER, SUITE 1300
1299 PENNSYLVANIA AVE, NW
WASHINGTON, DC 20004-2400

EXAMINER	
NGUYEN, PATRICIA T	
ART UNIT	**PAPER NUMBER**
2817	

DATE MAILED: 06/16/2004

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/376,338	03/03/2003	Randall C. Smith	066456.0107	7347

TITLE OF INVENTION: POWER SUPPLY FOR GUITAR AMPLIFIER

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	YES	$665	$300	$965	09/16/2004

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED. THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

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 THIS APPLICATION. THE PTOL-85B (OR AN EQUIVALENT) MUST BE RETURNED WITHIN THIS PERIOD EVEN IF NO FEE IS DUE OR THE APPLICATION WILL BE REGARDED AS ABANDONED.

HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:
A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status is changed, pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above and notify the United States Patent and Trademark Office of the change in status, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check the box below and enclose the PUBLICATION FEE and 1/2 the ISSUE FEE shown above.

☐ Applicant claims SMALL ENTITY status. See 37 CFR 1.27.

II. PART B - FEE(S) TRANSMITTAL should be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). Even if the fee(s) have already been paid, Part B - Fee(s) Transmittal should be completed and returned. If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

PTOL-85 (Rev. 11/03) Approved for use through 04/30/2004.

PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: Mail Mail Stop ISSUE FEE
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450
or Fax (703) 746-4000

INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 4 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Legibly mark-up with any corrections or use Block 1)

24735 7590 06/16/2004

BAKER BOTTS LLP
C/O INTELLECTUAL PROPERTY DEPARTMENT
THE WARNER, SUITE 1300
1299 PENNSYLVANIA AVE, NW
WASHINGTON, DC 20004-2400

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

Certificate of Mailing or Transmission

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO, on the date indicated below.

(Depositor's name)
(Signature)
(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/376,338	03/03/2003	Randall C. Smith	066456.0107	7347

TITLE OF INVENTION: POWER SUPPLY FOR GUITAR AMPLIFIER

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	YES	$665	$300	$965	09/16/2004

EXAMINER	ART UNIT	CLASS-SUBCLASS
NGUYEN, PATRICIA T	2817	330-118000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.

☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. Use of a Customer Number is required.

2. For printing on the patent front page, list (1) the names of up to 3 registered patent attorneys or agents OR, alternatively, (2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

1 _____
2 _____
3 _____

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. Inclusion of assignee data is only appropriate when an assignment has been previously submitted to the USPTO or is being submitted under separate cover. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE (B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent); ☐ individual ☐ corporation or other private group entity ☐ government

4a. The following fee(s) are enclosed:

☐ Issue Fee
☐ Publication Fee
☐ Advance Order - # of Copies _____

4b. Payment of Fee(s):

☐ A check in the amount of the fee(s) is enclosed.
☐ Payment by credit card. Form PTO-2038 is attached.
☐ The Director is hereby authorized by charge the required fee(s), or credit any overpayment, to Deposit Account Number _____ (enclose an extra copy of this form).

Director for Patents is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee to the application identified above.

(Authorized Signature) (Date)

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, Alexandria, Virginia 22313-1450.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

TRANSMIT THIS FORM WITH FEE(S)

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/376,338	03/03/2003	Randall C. Smith	066456.0107	7347

24735 7590 06/16/2004

BAKER BOTTS LLP
C/O INTELLECTUAL PROPERTY DEPARTMENT
THE WARNER, SUITE 1300
1299 PENNSYLVANIA AVE, NW
WASHINGTON, DC 20004-2400

EXAMINER	
NGUYEN, PATRICIA T	
ART UNIT	**PAPER NUMBER**
2817	

DATE MAILED: 06/16/2004

Determination of Patent Term Adjustment under 35 U.S.C. 154 (b)
(application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 0 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 0 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) system (http://pair.uspto.gov).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (703) 305-1383. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at (703) 305-8283.

PTOL-85 (Rev. 11/03) Approved for use through 04/30/2004.

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Jay M. Cantor, Esq.
9 Overpond Court
Potomac, MD 20854

APR 0 6 2006

In re Application of:
Randall C. Smith
Serial No.: 10/376,338
Filed: March 03, 2003
Attorney Docket No.: **066456.0107**

DECISION ON PETITION
TO WITHDRAW HOLDING
OF ABANDONMENT

This is a decision in petition filed on November 09, 2004, resubmitted on March 03, 2005 and supplemented on December 14, 2005, to withdraw the holding of abandonment in the above-identified application under 37 C.F.R. § 1.181. No petition fee is required.

The petition is **DISMISSED**.

The application was held abandoned for failure to timely pay the issue fee in response to the Notice of Allowance and Issue Fee Due (Notice) mailed on June 16, 2004. A Notice of Abandonment was mailed on October 21, 2004.

Petitioner states that counsel did not receive the Notice. The petition includes a copy of the docket record where the non-received Notice would have been entered had it been received and docketed.

A review of the written record indicates that the Notice was mailed to the firm of Baker Botts, LLP, the correspondence address provided by the applicant in the Declaration deposited with the application papers filed on March 03, 2003. This address does not correspond to petitioner's current address. Petitioner states in the petition that he left the firm of Baker Botts, LLP, on October 31, 2003, and retained the applicant as a client. Petitioner further states on the record that no change of address was filed. A further review of the written record indicates no irregularity in the mailing of the Notice, and in the absence of any irregularity there is a strong presumption that the Notice was properly mailed to the correspondence address of record. Under *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971), this presumption may be overcome by a showing that the Office communication was not received at the correspondence address of record.

The showing of record establishes only that the receipt of the Notice was not recorded at the Baker Botts, LLP, the correspondence address of record. The showing does not establish non-

receipt of the Notice. It is not clear what procedures were in place at Baker Botts, LLP, to handle the correspondence for that client since that client was no longer with the firm. Nor does the showing establish that Baker Botts, LLP, was under any obligation to record the receipt of correspondence for the instant application. The copy of the email message provided in support of the petition from Mr. Arpin, of Baker Botts, LLP, to the petitioner on November 04, 2004, sets forth that the last recorded entry for the instant application was the transfer of the file last November (November '03). Since the petitioner has not made the requisite showing, the petition is dismissed.

Should petitioner wish to have the decision reconsidered, a submission which details the mail handling procedures in place at Baker Botts, LLP, at the time of mailing the notice should be included to support the showing to establish non-receipt of the Notice mailed on June 16, 2004.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mailing date of this decision.

Petitioner may wish to consider filing a petition under 37 C.F.R. 1.137 (a) or (b) to revive the application.

Inquiries regarding this decision should be directed to Clayton E. LaBalle at (571) 272-1594.

Sharon A. Gibson, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAILED FROM
DIRECTORS OFFICE

SEP 13 2006

TECHNOLOGY CENTER 2800

WHITE & CASE LLP
PATENT DEPARTMENT
1155 Avenue of the Americas
New York, NY 10036

In re Application of:
Randall C. Smith
Serial No.: 10/376,338
Filed: March 03, 2003
For: **POWER SUPPLY FOR GUITAR AMPLIFIER**

DECISION ON RENEWED PETITION

This is a decision on the renewed petition filed on May 31, 2006, for reconsideration of the decision on a previous petition under 37 C.F.R. § 1.181, to withdraw the holding of abandonment of the above-identified application. No petition fee is necessary.

The petition is **GRANTED.**

The previous petition was dismissed because the petition lacked a showing of non-receipt at the correspondence address of record of the Notice of Allowance mailed June 16, 2004.

The renewed petition now includes a showing of non-receipt which includes a statement from from James B. Arpin attesting to the mail handling procedures at the correspondence address the which the Notice of Allowance was mailed.

For the above stated reason, the petition is granted. Accordingly, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. The application is restored to pending status.

The application file is being forwarded to the Technology Center 2800 support staff for re-mailing the Notice of Allowability and a Notice of Allowance and Issue Fee Due. The shortened statutory periods for response set therein will be reset to run from the date the Notices are re-mailed. Extensions of time for these periods are not available. See 37 C.F.R. § 1.136(c), effective November 07, 2000.

Inquiries regarding this decision should be directed to Clayton E. LaBalle at (571) 272-1594.

Sharon A. Gibson, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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10/11/07

Patent No. : 7,096,796 B2
Ser. No. : 10/376,364
Inventor(s) : William R. Rosecrantz, et. al.
Issued : August 29, 2006
Title : BRAKE HANDLE WITH INTEGRAL POSITION SENSING SWITCH
Docket No. : P02,0645 (H26926)

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this mater, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, , no additional fee is required.

Eva James
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) **308-9390 ext. 124** or (703) 308-8309

Bryan Anderson
Honeywell International Inc.
P.O. box 2245
Morristown, NJ 07962

ej

OIPE IAP84
JUN 10 2008
PATENT & TRADEMARK OFFICE

Cof C

PTO/SB/21 (01-08)
Approved for use through 06/30/2008. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
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TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission: 6

Application Number	10/376,364
Filing Date	February 23, 2003
First Named Inventor	William R. Rosecrantz
Art Unit	3617
Examiner Name	Mark T. Le
Attorney Docket Number	P02,0645 (H26926)

ENCLOSURES *(Check all that apply)*

- [x] Fee Transmittal Form
  - [x] Fee Attached
- [ ] Amendment/Reply
  - [ ] After Final
  - [ ] Affidavits/declaration(s)
- [ ] Extension of Time Request
- [ ] Express Abandonment Request
- [ ] Information Disclosure Statement
- [ ] Certified Copy of Priority Document(s)
- [ ] Reply to Missing Parts/ Incomplete Application
  - [ ] Reply to Missing Parts under 37 CFR 1.52 or 1.53
- [ ] Drawing(s)
- [ ] Licensing-related Papers
- [x] Petition
- [ ] Petition to Convert to a Provisional Application
- [ ] Power of Attorney, Revocation
- [ ] Change of Correspondence Address
- [ ] Terminal Disclaimer
- [ ] Request for Refund
- [ ] CD, Number of CD(s) _____
  - [ ] Landscape Table on CD
- [ ] After Allowance Communication to TC
- [ ] Appeal Communication to Board of Appeals and Interferences
- [ ] Appeal Communication to TC **(Appeal Notice, Brief, Reply Brief)**
- [ ] Proprietary Information
- [ ] Status Letter
- [x] Other Enclosure(s) (please Identify below):
  2 pgs Certificate of Correction
  1 Pg Patent Assignment Abstract of Title

Remarks

BS
Certificate
JUN 10 2008
of Correction

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	Honeywell International Inc.		
Signature			
Printed name	Bryan Anderson		
Date	June 6, 2008	Reg. No.	46,107

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:

Signature			
Typed or printed name	Bryan Anderson	Date	June 6, 2008

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

OIPE IAP64
JUN 10 2008
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re U. S. Patent: 7,096,796 B2 Examiner: Mark T. Le

Issued: August 29, 2006 Group: 3617

Inventor(s): William R. Rosecrantz et al. Docket No. P02,0645 (H26926)

For: BRAKE HANDLE WITH INTEGRAL POSITION SENSING SWITCH

CERTIFICATE OF MAILING UNDER 37 C.F.R. § 1.8(a)

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope address to: The Certificate of Corrections Branch, P.O. Box 1450, Alexandria, VA 22313-1450.

on June 6, 2008. Signature: _____
Bryan Anderson

PETITION FOR CORRECTION OF ASSIGNEE UNDER 37 CFR 3.81(b)

Mail Stop: PETITIONS
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This Petition is in response to the Request for Correction originally submitted August 28, 2007 and the decision of the response to the request which was denied on October 11, 2007.

The issue fee transmittal paid on July 6, 2007 did not include the name of the additional assignee recorded November 18, 2003 on reel 014707 frame 0634. This error was inadvertent and unintentional. A copy of the Notice of Recordation of Assignment is unavailable however; a copy of the Patent Assignment Abstract of Title listing the two entities has been attached herewith.

Please also find attached documents to request a Certificate of Correction under Rule 1.323. Commissioner is hereby authorized to charge our Account No. 01-1125 $100.00 per Rule 1.20(a), and any other fee deemed necessary. Applicant respectfully requests that the file be forwarded to Certificates of Correction branch for issuance of a Certificate of Correction if the Request is granted.

06/11/2008 SSITHIB1 00000032 011125 7096796
01 FC:1811 100.00 DA

Respectfully submitted,

By: Bryan Anderson
Honeywell International Inc.
Attorney for Applicant(s)
Reg. No. 46,107
Tel. (602) 313-3345

OIPE IAP84
JUN 10 2008
PATENT & TRADEMARK OFFICE

PTO/SB/17p (01-08)
Approved for use through 06/30/2008. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
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PETITION FEE
Under 37 CFR 1.17(f), (g) & (h)
TRANSMITTAL
(Fees are subject to annual revision)

Send completed form to: Commissioner for Patents
P.O. Box 1450, Alexandria, VA 22313-1450

Application Number	10/376,364
Filing Date	February 23, 2003
First Named Inventor	William R. Rosecrantz
Art Unit	3617
Examiner Name	Mark T. Le
Attorney Docket Number	P02,0645 (H26926)

Enclosed is a petition filed under 37 CFR 3.81(b) **that requires a processing fee (37 CFR 1.17(f), (g), or (h)). Payment of $** 130.00 **is enclosed.**
This form should be included with the above-mentioned petition and faxed or mailed to the Office using the appropriate Mail Stop (e.g., Mail Stop Petition), if applicable. *For transmittal of processing fees under 37 CFR 1.17(i), see form PTO/SB/17i.*

Payment of Fees (small entity amounts are NOT available for the petition fees)

☒ The Commissioner is hereby authorized to charge the following fees to Deposit Account No. 01-1125 :
☒ petition fee under 37 CFR 1.17(f), (g) or (h) ☒ any deficiency of fees and credit of any overpayments
Enclose a duplicative copy of this form for fee processing.

☐ Check in the amount of $_____ is enclosed.

☐ Payment by credit card (Form PTO-2038 or equivalent enclosed). Do not provide credit card information on this form.

Petition Fees under 37 CFR 1.17(f): Fee $400 Fee Code 1462
For petitions filed under:
§ 1.36(a) - for revocation of a power of attorney by fewer than all applicants
§ 1.53(e) - to accord a filing date.
§ 1.57(a) - to accord a filing date.
§ 1.182 - for decision on a question not specifically provided for.
§ 1.183 - to suspend the rules.
§ 1.378(e) - for reconsideration of decision on petition refusing to accept delayed payment of maintenance fee in an expired patent.
§ 1.741(b) - to accord a filing date to an application under § 1.740 for extension of a patent term.

Petition Fees under 37 CFR 1.17(g): Fee $200 Fee Code 1463
For petitions filed under:
§ 1.12 - for access to an assignment record.
§ 1.14 - for access to an application.
§ 1.47 - for filing by other than all the inventors or a person not the inventor.
§ 1.59 - for expungement of information.
§ 1.103(a) - to suspend action in an application.
§ 1.136(b) - for review of a request for extension of time when the provisions of section 1.136(a) are not available.
§ 1.295 - for review of refusal to publish a statutory invention registration.
§ 1.296 - to withdraw a request for publication of a statutory invention registration filed on or after the date the notice of intent to publish issued.
§ 1.377 - for review of decision refusing to accept and record payment of a maintenance fee filed prior to expiration of a patent.
§ 1.550(c) - for patent owner requests for extension of time in ex parte reexamination proceedings.
§ 1.956 - for patent owner requests for extension of time in inter partes reexamination proceedings.
§ 5.12 - for expedited handling of a foreign filing license.
§ 5.15 - for changing the scope of a license.
§ 5.25 - for retroactive license.

Petition Fees under 37 CFR 1.17(h): Fee $130 Fee Code 1464
For petitions filed under:
§ 1.19(g) - to request documents in a form other than that provided in this part.
§ 1.84 - for accepting color drawings or photographs.
§ 1.91 - for entry of a model or exhibit.
§ 1.102(d) - to make an application special.
§ 1.138(c) - to expressly abandon an application to avoid publication.
§ 1.313 - to withdraw an application from issue.
§ 1.314 - to defer issuance of a patent.

Signature	June 6, 2008 (Date)
Bryan Anderson (Typed or printed name)	46,107 (Registration No., if applicable)

This collection of information is required by 37 CFR 1.17. 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 5 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

06/11/2008 SSITHIB1 00000032 7096796
02 FC:1464 130.00 DA

Assignments on the Web > Patent Query

Patent Assignment Abstract of Title

NOTE:Results display only for issued patents and published applications. For pending or abandoned applications please consult USPTO staff.

Total Assignments: 2

Patent #: 7096796 **Issue Dt:** 08/29/2006 **Application #:** 10376364 **Filing Dt:** 02/28/2003

Publication #: 20040168606 **Pub Dt:** 09/02/2004

Inventors: William R. Rosencrantz, Eric C. Wright

Title: BRAKE HANDLE WITH INTEGRAL POSITION SENSING SWITCH

Assignment: 1

Reel/Frame: 013836/0467 **Recorded:** 02/28/2003 **Pages:** 2

Conveyance: ASSIGNMENT OF ASSIGNORS INTEREST (SEE DOCUMENT FOR DETAILS).

Assignor: ROSENCRANTZ, WILLIAM R. **Exec Dt:** 02/25/2003

Assignee: HONEYWELL INTERNATIONAL INC.
101 COLUMBIA ROAD P.O. BOX 2245
MORRISTOWN, NEW JERSEY 07962-2245

Correspondent: HONEYWELL INTERNATIONAL INC.
TREVOR B. JOIKE
LAW DEPT. AB2
101 COLUMBIA ROAD; P.O. BOX 2245
MORRISTOWN, NEW JERSEY 07962-2245

Assignment: 2

Reel/Frame: 014707/0634 **Recorded:** 11/18/2003 **Pages:** 2

Conveyance: ASSIGNMENT OF ASSIGNORS INTEREST (SEE DOCUMENT FOR DETAILS).

Assignor: WRIGHT, ERIC C. **Exec Dt:** 11/07/2003

Assignee: NEW YORK AIR BRAKE CORPORATION
748 STARBUCK AVENUE
WATERTOWN, NEW YORK 13601

Correspondent: BARNES & THOMBURG
PERRY PALAN
750 17TH STREET, N.W., SUITE 90
WASHINGTON, DC 20006

Search Results as of: 01/09/2008 11:27 AM
If you have any comments or questions concerning the data displayed, contact PRD / Assignments at 571-272-3350. v.2.0.1
Web interface last modified: April 20, 2007 v.2.0.1

OIPE IAP84 JUN 10 2008 PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

re U. S. Patent: 7,096,796 B2 Examiner: Mark T. Le

Issued: August 29, 2006 Group: 3617

Inventor(s): William R. Rosecrantz et al. Docket No. P02,0645 (H26926)

For: BRAKE HANDLE WITH INTEGRAL POSITION SENSING SWITCH

CERTIFICATE OF MAILING UNDER 37 C.F.R. § 1.8(a)

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope address to: The Certificate of Corrections Branch, P.O. Box 1450, Alexandria, VA 22313-1450.

on 6/6/08. Signature: _____
Bryan Anderson

CERTIFICATE OF CORRECTION UNDER 37 CFR 1.323

Attn: Certificate of Corrections Branch
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Please correct the above-identified patent by issuing a Certificate of Correction for Applicant's mistake under Rule 1.323 as follows:

Assignee: Honeywell International Inc., Morristown, NJ (US)
AND New York Air Brake Corporation, Watertown, NY (US)

A copy of the Patent Assignment Abstract of Title listing the two entities has been attached.

The above errors were made unintentionally. You are hereby authorized to charge our Account No. 01-1125 $100.00 per Rule 1.20(a), and any other fee deemed necessary:

Respectfully submitted,

Date: 6/6/08
Customer No. 00128

06/11/2008 SSITHIB1 00000032 7096796
01 FC:1811 100.00 DA

_____
By: Bryan Anderson
Honeywell International Inc.
Attorney for Applicant(s)
Reg. No. 46,107
Tel. (602) 313-3345

PTO/SB/44 (08-07)
Approved for use through 08/31/2007. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
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(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,096,796 B2

APPLICATION NO.: 10/376,364

ISSUE DATE : August 29, 2006

INVENTOR(S) : William R. Rosencrantz et al.

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Assignee: Honeywell International Inc., Morristown, NJ (US)
AND New York Air Brake Corporation, Watertown, NY (US)

MAILING ADDRESS OF SENDER (Please do not use customer number below):

Honeywell International Inc.
P.O. Box 2245
Morristown, NJ 07962

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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COOK, ALEX, MCFARRON, MANZO,
CUMMINGS & MEHLER
SUITE 2850
200 WEST ADAMS ST.
CHICAGO IL 60606

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JUL 26 2005

OFFICE OF PETITIONS

In re Application of	:	
Aya Anzai et al	:	
Application No. 10/376,366	:	ON PETITION
Filed: February 27, 2003	:	
Attorney Docket No. 0553-0351	:	

This is a decision on the petition, filed July 22, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on May 16, 2005 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 2821 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).

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,854,128	2005-02-15	10/376,373	2003-02-26	

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

Sole Patentee			
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	/ William Faulk /	Date (YYYY-MM-DD)	2010-01-05
Name	William Faulk		

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

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In re Patent No. 6854128
Issue Date: February 15,2005
Application No. 10376373
Filed: February 26,2003
Attorney Docket No. 02-013180

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed January 5,2010 ,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 5,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

JJGJR.: 07-06

Paper No: __

ARRIS INTERNATIONAL, INC
3871 LAKEFIELD DRIVE
SUWANEE GA 30024

In re Application of	:	
Winters, et al.	:	
Application No. 10/376,381	:	DECISION
Filing Date: 28 February, 2003	:	
Attorney Docket No.: 8030	:	

This is a decision on the petition filed on 9 May, 2006, alleging unintentional delay under 37 C.F.R. §1.137(b).

For the reasons set forth below, the petition under 37 C.F.R.§1.137(b) is **GRANTED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the Drawings Requirement of Notice of Allowance/Allowability and Fees Due mailed on 2 November, 2005, with reply due under a non-extendable deadline on or before 2 February, 2006;
- the instant application went abandoned after midnight 2 February, 2006;
- the Office mailed the Notice of Abandonment on 28 March, 2006;
- on 9 May, 2006, Petitioner filed the instant petition (with fee), with the reply in the form of drawings, and made the statement of unintentional delay–thus Petitioner appears to have satisfied the requirements under 37 C.F.R. §1.137(b);

- out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the

---

[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

Specifically, the regulations at 37 C.F.R. §10.18 provide:

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—

(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and

(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —

(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;

(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.

(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of —

(1) Holding certain facts to have been established;
(2) Returning papers;
(3) Precluding a party from filing a paper, or presenting or contesting an issue;
(4) Imposing a monetary sanction;
(5) Requiring a terminal disclaimer for the period of the delay; or
(6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).
[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[3]

Delays in responding properly raise the question whether delays are unavoidable.[4] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[5] And the Petitioner must be diligent in attending to the matter.[6] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[7]))

As to the Allegations
of Unintentional Delay

The requirements for a grantable petition under 37 C.F.R. §1.137(b) are the petition and fee, a statement/showing of unintentional delay, a proper reply, and–where appropriate--a terminal disclaimer and fee.

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[2] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[3] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[4] See: *Changes to Patent Practice and Procedure*; *Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[5] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[6] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[7] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

Petitioner appears to have satisfied the regulatory requirements.

CONCLUSION

The petition under 37 C.F.R. §1.137(b) hereby is **granted**.

The instant application is released to Publications Branch to be processed into a patent in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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HOFFMAN-LA ROCHE INC.
PATENT LAW DEPARTMENT
340 KINGSLAND STREET
NUTLEY, NJ 07110

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AUG 16 2007

OFFICE OF PETITIONS

In re Application of :
Ulrich Behrendt et al :
Application No. 10/376,392 : DECISION GRANTING PETITION
Filed: March 3, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 21161 US :

This is a decision on the petition, filed August 14, 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 July 16, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 1636 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\aug10\376392.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.*

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MailedAPR 2 7 2004

Paper No.

In re Application of
William J. Dimmick
Serial Number: 10/376,429
Filed: February 28, 2002
For: POLYMER COATED SURFACES HAVING INLAID DECORATIVE SHEETS

: DECISION ON
: PETITION UNDER
: M.P.E.P. 708.02,II

This is in response to the petition filed, September 22, 2003, requesting that the above-identified application be granted Special Status under Section 708.02, II of the M.P.E.P. and 37 CFR 1.102(d) (fee paid).

The petition has been considered and found to comply with the requirements set forth under the above-noted section. Accordingly, the petition is **GRANTED.**

Marian C Knode

Marian C. Knode, Special Program Examiner
Technology Center 1700
Chemical and Materials Engineering

Mark D. Swanson
Pauley Petersen Kinne & Erickson
Suite 365
2800 West Higgins Road
Hoffman Estates IL 60195

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/376,431	02/28/2003	Paul E. Peterson	100111113-1	8695

7590 03/05/2007

HEWLETT-PACKARD DEVELOPMENT COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins, CO 80527-2400

EXAMINER	
RICHARDS, N DREW	
ART UNIT	PAPER NUMBER
2815	

MAIL DATE	DELIVERY MODE
03/05/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Paper No. 02022007

Greg Wisdom
HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins CO 80527-2400

In re Application of Peterson et al :
Application no. 10/376431 : DECISION ON PETITION
Filed: 03 March 2003 :
Attorney Docket No. 100111113-1 :

This is a decision on the petition under 37 CFR 1.136(b), filed 1/17/07, to extend the time limit set under 37 CFR 41.71 for filing a reply brief under 37 CFR 41.71.

The petition is denied.

An appeal brief was filed on 6 July 6, 2006. An examiner's Answer was issued on November 17, 2006.

Pursuant to 37 CFR 41.71, appellant may file a reply brief pursuant 37 CFR 41.71 within two months of the date of the Examiner's Answer.

Petitioner request that the two-month time limit for filing a reply brief be extended a number of attorneys handling this matter left the firm, including the specific attorney responsible for writing the reply brief, and that the departures, transitions in responsibilities for this matter and the complexity of the technology involved converged to result in a need for a short extension. No further reasons or supporting evidence were provided.

Under 37 CFR 1.136(b), time may be extended only for sufficient cause and for a reasonable time specified. The showing of record is not deemed good and sufficient since it fails to indicate what steps had been taken to ensure that a reply brief be timely prepared and submitted. While it is unfortunate that several attorneys had left petitioner's law firm, it is incumbent upon petitioner to take necessary actions to timely prepare the reply brief. In this instance, petitioner stated the problems that may cause the delay in preparing the reply brief but did not indicate the actions taken up to the time of filing the petition to address this problem.

On appeal subsequent to the examiners answer, the applicant has up to the two months to mail in the optional reply brief. Applicant has not shown whether any work has been done to prepare the optional reply brief up to the time of filing the petition for an extension of time. This is not showing good and sufficient reasons.

In order to show good and sufficient reasons why more time is needed, applicant must show what has been done, and the reasons why more to is needed to complete the reply brief. Applicant has not shown any good and sufficient reasons other than asserting that many attorneys had left including the specific attorneys responsible for writing the reply brief. This reason alone cannot be accepted since it isn't prudent practice to assign work to a person who is leaving applicant employment. Furthermore, it is not clear who is the responsible attorney. The record reveals that Lance Sadler prosecuted and signed the responses including the appeal brief.

Accordingly, the request for an extension of time is DENIED. The application is being forwarded the Board of Patent Appeals and Interferences. Telephone inquiries should be directed to Ken Parker at (571)272-2298.

Robert J. Oberleitner, Director
Technology Center 2800 – Semiconductors, Electrical and
Optical Systems and Components

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Alexandria, VA 22313-1450
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HEWLETT-PACKARD DEVELOPMENT COMPANY
INTELLECTUAL PROPERTY ADMINISTRATION
P.O. BOX 272400
FORT COLLINS, CO 80527-2400

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OFFICE OF PETITIONS

In re Application of	:	
Jouppi, Norman Paul	:	
Application No. 10/376,435	:	DECISION ON PETITION
Filed: February 27, 2003	:	
Attorney Docket No. 200207698-1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 20, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center 2624 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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INTELLECTUAL PROPERTY ADMINISTRATION
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FORT COLLINS, CO 80527-2400

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OFFICE OF PETITIONS

In re Application of	:	
Jouppi, Norman Paul	:	
Application No. 10/376,435	:	DECISION ON PETITION
Filed: February 27, 2003	:	
Attorney Docket No. 200207698-1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 20, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center 2624 for further examination on the merits.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Paper No.

MBHB/TRADING TECHNOLOGIES
300 SOUTH WACKER DRIVE
SUITE 3200
CHICAGO IL 60606

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JUN 0 9 2009

OFFICE OF PETITIONS

In re Application of :
Singer et al. :
Application No. 10/376,437 : ON APPLICATION FOR
Filed: February 28, 2003 : PATENT TERM ADJUSTMENT
Atty Docket No. 03-219 :

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT filed on December 1, 2009. Applicant requests that the determination of patent term adjustment be corrected from one thousand two hundred sixty-five (1265) days to one thousand four hundred seventy-five (1475) days. Applicant requests this correction on the basis that the Office will take in excess of three years to issue this patent and in light of the recent court decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008).

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 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 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[1]. Accordingly, it is still too soon to make a determination as to the correctness of

[1] The computer will also enter any additional periods of adjustment for Office delay and any additional periods of reduction for applicant delay after the mailing of the notice of allowance, such as pursuant to 37 CFR 1.703(a)(6) for Office delay and 37 CFR 1.704(c)(10) for applicant delay.

any period of adjustment that will or will not be entered pursuant to § 1.703(b)).

Applicant is given TWO (2) MONTHS from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within 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.

Rather than file the request for reconsideration of Patent Term Adjustment at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term pursuant to 37 CFR 1.705(d). The USPTO notes that it does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent and accordingly, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent.

It is acknowledged that applicant is correct that any period of adjustment will be entered in light of 35 U.S.C. 154(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY, which provides that:

> Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including —
>
> (i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

It is noted that a Request for Continued Examination (RCE) was first filed in this application on May 12, 2008.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

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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Paper No.

MBHB/TRADING TECHNOLOGIES
300 SOUTH WACKER DRIVE
SUITE 3200
CHICAGO IL 60606

MAILED
APR 16 2010
OFFICE OF PETITIONS

In re Patent No. 7,558,754	:	DECISION ON REQUEST
Singer et al.	:	FOR
Issue Date: July 7, 2009	:	RECONSIDERATION OF
Application No. 10/376,437	:	PATENT TERM ADJUSTMENT
Filed: February 28, 2003	:	and
Atty Docket No. 03-219	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on September 3, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand five hundred seventy-two (1572) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand five hundred seventy-one (1571) is **GRANTED to the extent indicated herein.**

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on March 1, 2006 and ends on May 11, 2008, the day before the RCE was filed is 803 (not 804) days. See 35 U.S.C. 154(b)(1)(B)(i). As such, the patent term adjustment is 1571, not 1572 days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or

patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand five hundred seventy-one (1571)** days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,558,754 B1

DATED : **July 7, 2009** **DRAFT**

INVENTOR(S) : Singer 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 1362 days.

Delete the phrase "by 1362 days" and insert – by 1571 days--

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JJGJr: 08-04

Paper No: __

COOK, ALEX, MCFARRON,
MANZO, CUMMINGS & MEHLER LTD
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200 WEST ADAMS STREET
CHICAGO IL 60606

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AUG 2 7 2004

OFFICE OF PETITIONS

In re Application of :
McArdle, et al. :
Application No. 10/376,439 : ON PETITION
Filed: 28 February, 2004 :
Attorney Docket No. 1741-CIP :

This is a decision on the petition filed as one of several parts of a single paper on 21 July, 2003, and similarly resubmitted on 8 May and 28 June, 2004, and considered under 37 C.F.R. §1.53, to obtain a filing date of 28 February, 2004, for the application as a whole and for Fig. 1, rather than the presently accorded filing date of 7 May, 2003.

The Office regrets the delay in addressing this matter, but notes that submission of the instant petition contained within other documents is inconsistent with the Rules of Practice (37 C.F.R. §1.4).

For the reasons set forth below, the petition is **GRANTED in part** and **DISMISSED in part**.

BACKGROUND

This application was deposited on 28 February, 2003.

On 2 May, 2003, the Office mailed a Notice of Incomplete Nonprovisional Application (the 2 May Notice) indicated that no filing date had been accorded because the application had been filed without drawings as required under 35 U.S.C. §113 (first sentence). That Notice reminded

Petitioner that any filing date accorded would be "the date of receipt of" the drawing(s) if submitted.

The 2 May Notice also indicated that the application had been filed without a signed oath/declaration.

NOTE: A review of the Application as deposited indicate that Petitioner's Claims 1 - 18 and 31 - 48 appear to contain methods/process claims.

On 7 May, Petitioner filed via US Postal Service Express Mail a Response to the 2 May Notice, and included therewith a copy of drawing/graph labeled as Fig. 1.

Although Petitioner's later filings suggest he wished to obtain a 28 February, 2003, filing date based upon incorporation-by-reference language (as to a parent application) in the specification, Petitioner did not include that information in the 7 May, 2003, submission.

On 27 May, 2003, the Office mailed a Notice to File Missing Parts of a Nonprovisional Application (as to oath/declaration and late submission fee), and noted thereon a filing/receipt date of 7 May, 2003.

On 21 July, 2003, Petitioner filed (along with an oath/declaration, fees and copies of drawings) a single document entitled "Response to Missing Parts Notice, Petition to Correct Filing Date and Information Disclosure Statement." Therein Petitioner asserted that the application should be accorded a 28 February, 2003, filing date based upon the incorporation-by-reference language.

On 8 March, 2004, Petitioner sought the Status as to the 21 July, 2003, filing date petition, a copy of which he included with the status request.

On 28 June, 2004, Petitioner sought the Status as to the 21 July, 2003, filing date petition, a copy of which he included with the status request.

On 22 July, Petitioner sought the Status as to the 21 July, 2003, filing date petition.

Analysis

A search of the official file reveals that on 28 February, 2003, Petitioner deposited the instant application, and stated therein on the first page of the specification: "[t]his is a continuation-in-part of Application Serial No. 09/848,675, filed May 3, 2001, incorporated by reference hereinto." Petitioner does not contest that the application was deposited without drawings.

With regard to the 7 May, 2003, drawing submission, Petitioner is reminded that the language of

the 2 May, 2003, Notice of Incomplete Nonprovisional Application expressly informed Petitioner that the submission of the omitted drawing would result in a filing date consistent with that of such submission.

Petitioner also is reminded that the Rules of Practice (i.e., 37 C.F.R. §1.4[1]) require separate matters to be addressed in separate papers.

While Petitioner does not allege that the drawing found to be missing from the application is not necessary for the understanding of the invention, it is the practice of the Office to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for the understanding of the invention under 35 U.S.C. §113 (first sentence). (See: MPEP §601.01[2])

This application contains method claims, as noted above. Therefore, the application should have been treated as an application filed without the drawing figure(s) referred to in the specification as discussed in MPEP §601.01(g).[3]

---

[1] The regulations at 37 C.F.R. §1.4 provide in pertinent part:

§1.4 Nature of correspondence and signature requirements.

* * *

(c)Since different matters may be considered by different branches or sections of the United States Patent and Trademark Office,each distinct subject, inquiry or order must be contained in a separate paper to avoid confusion and delay in answering papers dealing with different subjects.

* * *

[2] The commentary at MPEP §601.01 provides in pertinent part:

* * *

601.01(f) Applications Filed Without Drawings

35 U.S.C. 111(a)(2)(B) and 35 U.S.C. 111(b)(1)(B) each provide, in part, that an "application shall include . . . a drawing as prescribed by section 113 of this title" and 35 U.S.C. 111(a)(4) and 35 U.S.C. 111(b)(4) each provide, in part, that the "filing date . . . shall be the date on which . . . any required drawing are received in the Patent and Trademark Office." 35 U.S.C. 113 (first sentence) in turn provides that an "applicant shall furnish a drawing where necessary for the understanding of the subject matter sought to be patented.

Applications filed without drawings are initially inspected to determine whether a drawing is referred to in the specification, and if not, whether a drawing is necessary for the understanding of the invention. 35 U.S.C. 113 (first sentence).

It has been USPTO practice to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence). The same practice has been followed in composition applications.

* * *

A nonprovisional application having at least one claim, or a provisional application having at least some disclosure, directed to the subject matter discussed above for which a drawing is usually not considered essential for a filing date, not describing drawing figures in the specification, and filed without drawings will simply be processed for examination, so long as the application contains something that can be construed as a written description. A nonprovisional application having at least one claim, or a provisional application having at least some disclosure, directed to the subject matter discussed above for which a drawing is usually not considered essential for a filing date, describing drawing figure(s) in the specification, but filed without drawings will be treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP § 601.01(g), so long as the application contains something that can be construed as a written description. In a situation in which the appropriate Technology Center (TC) determines that drawings are necessary under 35 U.S.C. 113 (first sentence) the filing date issue will be reconsidered by the USPTO.

* * *

[3] The commentary at MPEP §601.01 provides in pertinent part:

* * *

601.01(g) Applications Filed Without All Figures of Drawings

The Office of Initial Patent Examination (OIPE) reviews application papers to determine whether all of the figures of the drawings that are

It appears that a "Notice of Omitted Items" should have been mailed instead of the "Notice of Incomplete Nonprovisional Application."

Therefore, the 2 May, 2003, "Notice of Incomplete Nonprovisional Application" hereby is **vacated**.

CONCLUSION

The petition is:

- **granted in part**, to the extent that the application will be accorded the filing date of 28 February, 2003, without the 1 sheet of drawings containing Fig. 1 as part of the original disclosure of the application; and

- **dismissed in part** as to the request for the 28 February, 2003, filing date for Fig. 1.

Because the omission of Fig. 1 and the petition as to its inclusion was not due to Office error, the petition fee is charged, as authorized, to Deposit Account 50-1039.

Petitioner asserts that the first paragraph of the specification states that the application is a continuation of Application No. Application No. 09/848,675, filed May 3, 2001, and pending as of the filing of the instant application), and that " . . . incorporated by reference hereinto."

This incorporation may be proper in practice before the Office. (See: MPEP §201.06(c) (in pertinent part).)[4] As a matter of expediting prosecution, Petitioner may submit a copy of the

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mentioned in the specification are present in the application. If the application is filed without all of the drawing figure(s) referred to in the specification, and the application contains something that can be construed as a written description, at least one drawing, if necessary under 35 U.S.C. 113 (first sentence), and, in a nonprovisional application, at least one claim, OIPE will mail a "Notice of Omitted Item(s)" indicating that the application papers so deposited have been accorded a filing date, but are lacking some of the figures of drawings described in the specification. The mailing of a "Notice of Omitted Item(s)" will permit the applicant to either: (1) promptly establish prior receipt in the USPTO of the drawing(s) at issue (generally by way of a date-stamped postcard receipt (MPEP § 503)); or (2) promptly submit the omitted drawing(s) in a nonprovisional application and accept the date of such submission as the application filing date. An applicant asserting that the drawing(s) was in fact deposited in the USPTO with the application papers must, within 2 months from the date of the "Notice of Omitted Item(s)," file a petition under 37 C.F.R. 1.53(e) with the petition fee set forth in 37 C.F.R. 1.17(h), along with evidence of such deposit (37 C.F.R. 1.181(f)). The petition fee will be refunded if it is determined that the drawing(s) was in fact received by the USPTO with the application papers deposited on filing.

* * *

[4] The commentary at MPEP §201.06(c) provides in pertinent part:

* * *

INCORPORATION BY REFERENCE

* * *

In a continuation or divisional application, the safe-guard (petition and fee under former 37 C.F.R. 1.60(b)) concerning the filing of an application lacking all of the pages of the specification or sheets of drawings of the prior application has not been retained in 37 C.F.R. 1.53(b) since the specification and drawings of a continuation or divisional application are not limited to a reproduction or a "true copy" of the prior application. As a safeguard, however, an applicant may incorporate by reference the prior application by including, in the continuation or

parent application (Application Serial No. 09/848,675, filed May 3, 2001) with a preliminary amendment and seek entry of that amendment by the Examiner.

The application file is being released to the Office of Initial Patent Examination for further processing with a corrected filing date of 28 February, 2003, indicating in the Office records that "0" sheets of drawings were present on filing, and the mailing of a corrected filing receipt.

Telephone inquiries concerning this decision may be directed to the undersigned at (703)305-9199.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

divisional application-as-filed, a statement that such specifically enumerated prior application or applications are "hereby incorporated herein by reference." The statement may appear in the specification or in the application transmittal letter. The incorporation by reference statement can only be relied upon to permit the entering of a portion of the prior application into the continuation or divisional application when the portion of the prior application has been inadvertently omitted from the submitted application papers in the continuation or divisional application The inclusion of this incorporation by reference of the prior application(s) will permit an applicant to amend the continuation or divisional application to include any subject matter in such prior application(s), without the need for a petition provided the continuation or divisional application is entitled to a filing date notwithstanding the incorporation by reference. (Emphasis supplied.).

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OIPE JC131
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Paper No: __

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OFFICE OF PETITIONS

In re Application of :
McArdle, et al. :
Application No. 10/376,439 : ON PETITION
Filed: 28 February, 2004 :
Attorney Docket No. 1741-CIP :

This is a decision on the petition filed as one of several parts of a single paper on 21 July, 2003, and similarly resubmitted on 8 May and 28 June, 2004, and considered under 37 C.F.R. §1.53, to obtain a filing date of 28 February, 2004, for the application as a whole and for Fig. 1, rather than the presently accorded filing date of 7 May, 2003.

The Office regrets the delay in addressing this matter, but notes that submission of the instant petition contained within other documents is inconsistent with the Rules of Practice (37 C.F.R. §1.4).

For the reasons set forth below, the petition is **GRANTED in part** and **DISMISSED in part**.

BACKGROUND

This application was deposited on 28 February, 2003.

On 2 May, 2003, the Office mailed a Notice of Incomplete Nonprovisional Application (the 2 May Notice) indicated that no filing date had been accorded because the application had been filed without drawings as required under 35 U.S.C. §113 (first sentence). That Notice reminded

Petitioner that any filing date accorded would be "the date of receipt of" the drawing(s) if submitted.

The 2 May Notice also indicated that the application had been filed without a signed oath/declaration.

NOTE: A review of the Application as deposited indicate that Petitioner's Claims 1 - 18 and 31 - 48 appear to contain methods/process claims.

On 7 May, Petitioner filed via US Postal Service Express Mail a Response to the 2 May Notice, and included therewith a copy of drawing/graph labeled as Fig. 1.

Although Petitioner's later filings suggest he wished to obtain a 28 February, 2003, filing date based upon incorporation-by-reference language (as to a parent application) in the specification, Petitioner did not include that information in the 7 May, 2003, submission.

On 27 May, 2003, the Office mailed a Notice to File Missing Parts of a Nonprovisional Application (as to oath/declaration and late submission fee), and noted thereon a filing/receipt date of 7 May, 2003.

On 21 July, 2003, Petitioner filed (along with an oath/declaration, fees and copies of drawings) a single document entitled "Response to Missing Parts Notice, Petition to Correct Filing Date and Information Disclosure Statement." Therein Petitioner asserted that the application should be accorded a 28 February, 2003, filing date based upon the incorporation-by-reference language.

On 8 March, 2004, Petitioner sought the Status as to the 21 July, 2003, filing date petition, a copy of which he included with the status request.

On 28 June, 2004, Petitioner sought the Status as to the 21 July, 2003, filing date petition, a copy of which he included with the status request.

On 22 July, Petitioner sought the Status as to the 21 July, 2003, filing date petition.

Analysis

A search of the official file reveals that on 28 February, 2003, Petitioner deposited the instant application, and stated therein on the first page of the specification: "[t]his is a continuation-in-part of Application Serial No. 09/848,675, filed May 3, 2001, incorporated by reference hereinto." Petitioner does not contest that the application was deposited without drawings.

With regard to the 7 May, 2003, drawing submission, Petitioner is reminded that the language of

the 2 May, 2003, Notice of Incomplete Nonprovisional Application expressly informed Petitioner that the submission of the omitted drawing would result in a filing date consistent with that of such submission.

Petitioner also is reminded that the Rules of Practice (i.e., 37 C.F.R. §1.4[1]) require separate matters to be addressed in separate papers.

While Petitioner does not allege that the drawing found to be missing from the application is not necessary for the understanding of the invention, it is the practice of the Office to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for the understanding of the invention under 35 U.S.C. §113 (first sentence). (See: MPEP §601.01[2])

This application contains method claims, as noted above. Therefore, the application should have been treated as an application filed without the drawing figure(s) referred to in the specification as discussed in MPEP §601.01(g).[3]

---

[1] The regulations at 37 C.F.R. §1.4 provide in pertinent part:

§1.4 Nature of correspondence and signature requirements.

* * *

(c)Since different matters may be considered by different branches or sections of the United States Patent and Trademark Office,each distinct subject, inquiry or order must be contained in a separate paper to avoid confusion and delay in answering papers dealing with different subjects.

* * *

[2] The commentary at MPEP §601.01 provides in pertinent part:

* * *

601.01(f) Applications Filed Without Drawings

35 U.S.C. 111(a)(2)(B) and 35 U.S.C. 111(b)(1)(B) each provide, in part, that an "application shall include . . . a drawing as prescribed by section 113 of this title" and 35 U.S.C. 111(a)(4) and 35 U.S.C. 111(b)(4) each provide, in part, that the "filing date . . . shall be the date on which . . . any required drawing are received in the Patent and Trademark Office." 35 U.S.C. 113 (first sentence) in turn provides that an "applicant shall furnish a drawing where necessary for the understanding of the subject matter sought to be patented.

Applications filed without drawings are initially inspected to determine whether a drawing is referred to in the specification, and if not, whether a drawing is necessary for the understanding of the invention. 35 U.S.C. 113 (first sentence).

It has been USPTO practice to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence). The same practice has been followed in composition applications.

* * *

A nonprovisional application having at least one claim, or a provisional application having at least some disclosure, directed to the subject matter discussed above for which a drawing is usually not considered essential for a filing date, not describing drawing figures in the specification, and filed without drawings will simply be processed for examination, so long as the application contains something that can be construed as a written description. A nonprovisional application having at least one claim, or a provisional application having at least some disclosure, directed to the subject matter discussed above for which a drawing is usually not considered essential for a filing date, describing drawing figure(s) in the specification, but filed without drawings will be treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP § 601.01(g), so long as the application contains something that can be construed as a written description. In a situation in which the appropriate Technology Center (TC) determines that drawings are necessary under 35 U.S.C. 113 (first sentence) the filing date issue will be reconsidered by the USPTO.

* * *

[3] The commentary at MPEP §601.01 provides in pertinent part:

* * *

601.01(g) Applications Filed Without All Figures of Drawings

The Office of Initial Patent Examination (OIPE) reviews application papers to determine whether all of the figures of the drawings that are

It appears that a "Notice of Omitted Items" should have been mailed instead of the "Notice of Incomplete Nonprovisional Application."

Therefore, the 2 May, 2003, "Notice of Incomplete Nonprovisional Application" hereby is **vacated**.

CONCLUSION

The petition is:

- **granted in part**, to the extent that the application will be accorded the filing date of 28 February, 2003, without the 1 sheet of drawings containing Fig. 1 as part of the original disclosure of the application; and

- **dismissed in part** as to the request for the 28 February, 2003, filing date for Fig. 1.

Because the omission of Fig. 1 and the petition as to its inclusion was not due to Office error, the petition fee is charged, as authorized, to Deposit Account 50-1039.

Petitioner asserts that the first paragraph of the specification states that the application is a continuation of Application No. Application No. 09/848,675, filed May 3, 2001, and pending as of the filing of the instant application), and that " . . . incorporated by reference hereinto."

This incorporation may be proper in practice before the Office. (See: MPEP §201.06(c) (in pertinent part).)[4] As a matter of expediting prosecution, Petitioner may submit a copy of the

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mentioned in the specification are present in the application. If the application is filed without all of the drawing figure(s) referred to in the specification, and the application contains something that can be construed as a written description, at least one drawing, if necessary under 35 U.S.C. 113 (first sentence), and, in a nonprovisional application, at least one claim, OIPE will mail a "Notice of Omitted Item(s)" indicating that the application papers so deposited have been accorded a filing date, but are lacking some of the figures of drawings described in the specification. The mailing of a "Notice of Omitted Item(s)" will permit the applicant to either: (1) promptly establish prior receipt in the USPTO of the drawing(s) at issue (generally by way of a date-stamped postcard receipt (MPEP § 503)); or (2) promptly submit the omitted drawing(s) in a nonprovisional application and accept the date of such submission as the application filing date. An applicant asserting that the drawing(s) was in fact deposited in the USPTO with the application papers must, within 2 months from the date of the "Notice of Omitted Item(s)," file a petition under 37 C.F.R. 1.53(e) with the petition fee set forth in 37 C.F.R. 1.17(h), along with evidence of such deposit (37 C.F.R. 1.181(f)). The petition fee will be refunded if it is determined that the drawing(s) was in fact received by the USPTO with the application papers deposited on filing.

* * *

[4] The commentary at MPEP §201.06(c) provides in pertinent part:

* * *

INCORPORATION BY REFERENCE

* * *

In a continuation or divisional application, the safe-guard (petition and fee under former 37 C.F.R. 1.60(b)) concerning the filing of an application lacking all of the pages of the specification or sheets of drawings of the prior application has not been retained in 37 C.F.R. 1.53(b) since the specification and drawings of a continuation or divisional application are not limited to a reproduction or a "true copy" of the prior application. As a safeguard, however, an applicant may incorporate by reference the prior application by including, in the continuation or

OIPE JC131 JAN 0 5 2005 PATENT & TRADEMARK OFFICE

parent application (Application Serial No. 09/848,675, filed May 3, 2001) with a preliminary amendment and seek entry of that amendment by the Examiner.

The application file is being released to the Office of Initial Patent Examination for further processing with a corrected filing date of 28 February, 2003, indicating in the Office records that "0" sheets of drawings were present on filing, and the mailing of a corrected filing receipt.

Telephone inquiries concerning this decision may be directed to the undersigned at (703)305-9199.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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divisional application-as-filed, a statement that such specifically enumerated prior application or applications are "hereby incorporated herein by reference." The statement may appear in the specification or in the application transmittal letter. The incorporation by reference statement can only be relied upon to permit the entering of a portion of the prior application into the continuation or divisional application when the portion of the prior application has been inadvertently omitted from the submitted application papers in the continuation or divisional application The inclusion of this incorporation by reference of the prior application(s) will permit an applicant to amend the continuation or divisional application to include any subject matter in such prior application(s), without the need for a petition provided the continuation or divisional application is entitled to a filing date notwithstanding the incorporation by reference. (Emphasis supplied.).

OIPE JC131 JAN 0 5 2005 PATENT & TRADEMARK OFFICE

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TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission	9

Application Number	10/376,439
Filing Date	February 28, 2003
First Named Inventor	Richard N. McArdle
Art Unit	1761
Examiner Name	Unassigned
Attorney Docket Number	40400-10218

ENCLOSURES *(Check all that apply)*

- ☐ Fee Transmittal Form
  - ☐ Fee Attached
- ☑ Amendment/Reply
  - ☐ After Final
  - ☐ Affidavits/declaration(s)
- ☐ Extension of Time Request
- ☐ Express Abandonment Request
- ☐ Information Disclosure Statement
- ☐ Certified Copy of Priority Document(s)
- ☐ Reply to Missing Parts/ Incomplete Application
  - ☐ Reply to Missing Parts under 37 CFR 1.52 or 1.53
- ☑ Drawing(s)
- ☐ Licensing-related Papers
- ☐ Petition
- ☐ Petition to Convert to a Provisional Application
- ☐ Power of Attorney, Revocation Change of Correspondence Address
- ☐ Terminal Disclaimer
- ☐ Request for Refund
- ☐ CD, Number of CD(s) _____
  - ☐ Landscape Table on CD
- ☐ After Allowance Communication to TC
- ☐ Appeal Communication to Board of Appeals and Interferences
- ☐ Appeal Communication to TC **(Appeal Notice, Brief, Reply Brief)**
- ☐ Proprietary Information
- ☐ Status Letter
- ☑ Other Enclosure(s) (please Identify below):
  Copy fo Decision on Petition

Remarks

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	Ryndak & Suri		
Signature	Vangeli Economou		
Printed name	Vangelis Economou		
Date	Decmeber 31, 2004	Reg. No.	32,341

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:

Signature	Vangeli Economou		
Typed or printed name	Vangelis Economou	Date	12/31/2004

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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DOCKET: 40400-10218 PATENT

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as Express Mail under 37 CFR 1.10 in an envelope addressed to Commissioner for Patents, Mail Stop Amendment, P.O. Box 1450, Alexandria, VA 22313-1450 on December 31, 2004.

Vangelis Economou
(Typed or printed name of person mailing paper or fee)

Vangelis Economou
(Signature of person mailing paper or fee)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Richard N. McArdle
Appl. No.:	10/376,439
Filed:	February 28, 2003
Title:	ORANGE JUICE OF LOW CITRUS OIL CONTENT REDUCTION OF HEARTBURN EPISODES
Grp./A.U.:	1761
Examiner:	Unassigned
Docket No.	40400-10218

Commissioner for Patents
Mail Stop Amendments
P.O. Box 1450
Alexandria, VA 22313-1450

TRANSMITTAL OF DRAWING FIGURE 1
FOR EXAMINER'S APPROVAL

Sir:

Attached please find drawing Fig. 1 (1 sheet), for which the approval of the Examiner is respectfully requested. The drawing figure is described in the originally filed application at page 13, lines 7-10, and was submitted to the U. S. Patent and Trademark Office in substantially identical form in the parent application, Serial No. 09/848,675, incorporated by reference in this continuation application on page 1, lines 5-6 of the application.

Applicant: Richard N. McArdle
Ser. No.: 10/376,439
Filed: Feb. 28, 2003

This drawing amendment was authorized in the Decision of the Office of Petitions, dated August 27, 2004, a copy of which is enclosed.

No new matter has been added to the drawings.

Since Fig. 1 is substantively identical to the drawing filed with the original parent application documents, entry thereof in this continuation application is respectfully requested.

Respectfully submitted,

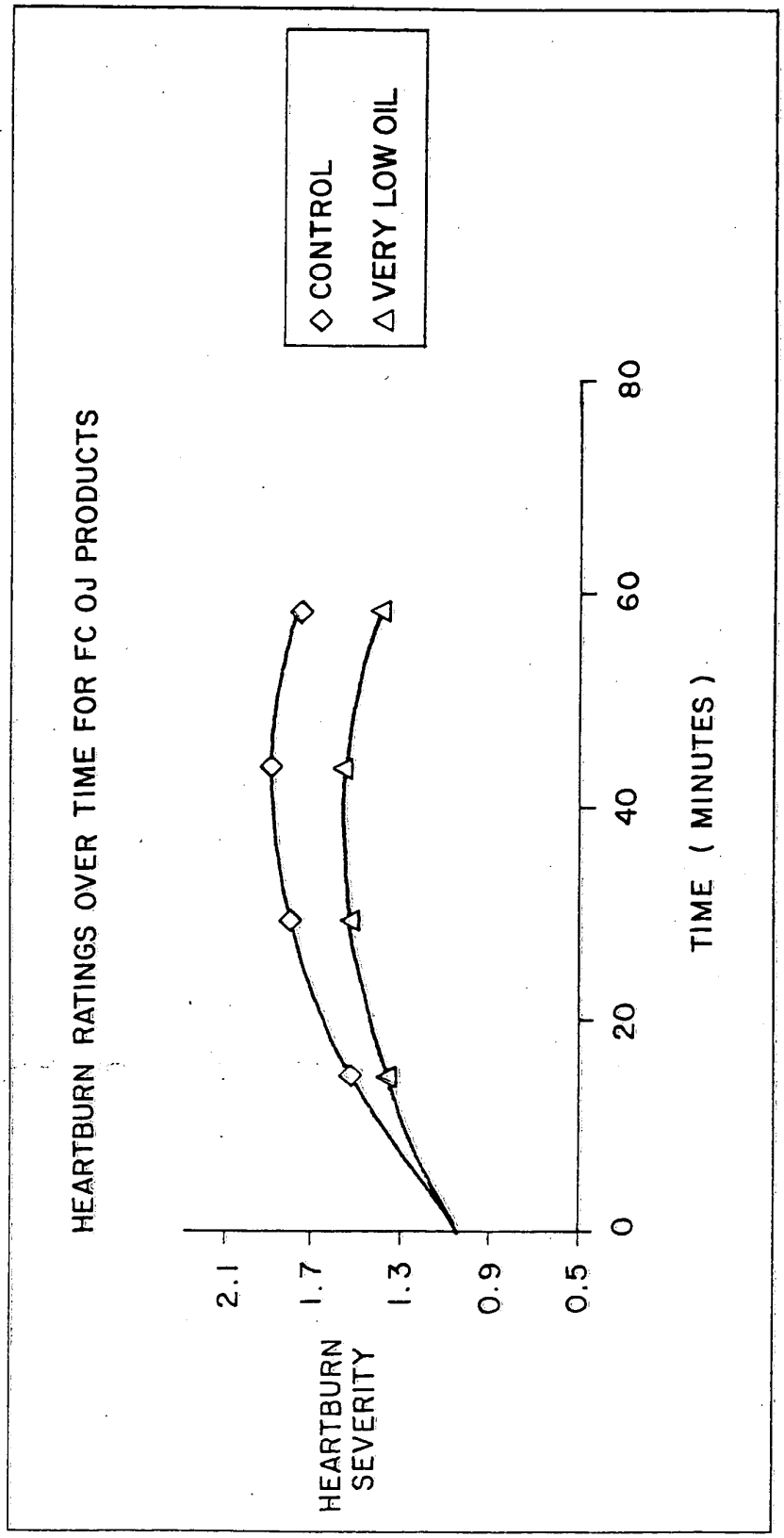
By _____
Vangelis Economou
Reg. No. 32,341
Attorney for Applicant

Dated: December 14, 2004

RYNDAK & SURI
30 North LaSalle Street
Suite 2630
Chicago, Illinois 60602
(312) 214-7770

OIPE
JAN 0 5 2005
PATENT & TRADEMARK OFFICE

FIG.1



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JAN 12 2005

OFFICE OF PETITIONS

(NAIPC) NORTH AMERICA INTERNATIONAL PATENT OFFICE
P.O. BOX 506
MERRIFIELD VA 22116

In re Application of :
Shang-Tzu Ju :
Application No. 10/376,443 : ON PETITION
Filed: February 28, 2003 :
Attorney Docket No. 11549/11 :

This is a decision on the petition under 37 CFR 1.182, filed December 10, 2004, to correct the inventor's name.

The petition is **DISMISSED** as **MOOT**.

The petition is dismissed as moot because the Office recognized the inventor's name as Shang-Tzu Ju, as noted on the declaration filed with the above-identified application . Therefore, the petition fee of $400 is not necessary and will be credited to deposit account no. 50-3105 as authorized.

This file is being referred to Technology Center Art Unit 2652.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208.

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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FORT COLLINS CO 80527-2400

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JAN 15 2008

OFFICE OF PETITIONS

In re Application of :
Juan Uroz et al :
Application No. 10/376,447 : DECISION GRANTING PETITION
Filed: February 28, 2003 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 200207215-1 :

This is a decision on the petition under 37 CFR 1.137(b), filed June 26, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Nonfinal Rejection of December 19, 2006, is accepted as having been unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $1,020 extension of time submitted with the petition on June 26, 2007 was subsequent to the maximum extendable period for reply, petitioner may request a refund of this fee by writing to the Office of Finance, Refund Section. A copy of this decision should accompany petitioner's request.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such

inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Technology Center AU 2625.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

cc:
DAVID S. THOMPSON
421 WEST RIVERSIDE, SUITE 500
SPOKANE, WA 99201

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BOX 401
TORONTO ON M5H 3Y2 CA CANADA

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OFFICE OF PETITIONS

In re Application of

Chapman, et al.

Application No. 10/376,452

Filed: March 3, 2003

Attorney Docket No. 6052-130/HRH

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed December 7, 2005, which will be treated as a petition under 37 CFR 1.181(a) to withdraw the holding of abandonment.

The petition under 37 CFR 1.181(a) to withdraw the holding of abandonment is **granted**.

This application was held abandoned on July 7, 2005, after it was believed that no response was received to the final Office action mailed April 6, 2005. The final Office action allowed a shortened statutory 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 November 15, 2005, indicating that a reply to the final Office action was not received.

The instant petition maintains that an amendment responsive to the final Office action was timely mailed, but cited an incorrect application serial number. A review of the application file revealed that an amendment responsive to the final Office action filed on June 30, 2005, and matched with the subject application. It appears that the application was improperly held abandoned as a response to the final Office action was filed prior to expiration of the statutory period for reply. The holding of abandonment is withdrawn, accordingly.

The petition fee of $1,500.00 will be refunded, in due course.

The application file is being forwarded Technology Center 3600, GAU 3618, for further processing.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

#9
DW

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TC 3600

Jansson, Shupe & Munger, LTD
245 Main Street
Racine, WI 53403

In re Application of
David A. Roessler, et al.
Application No. 10/376,471
Filed: February 28, 2003
For: ROLLER WITH INTEGRAL BEARING ASSEMBLY MOUNT AND METHOD FOR MANUFACTURING SAME

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on applicants' petition to withdraw the holding of abandonment, filed in the United States Patent and Trademark Office on October 5, 2004, under 37 CFR 1.181.

The petition is **DISMISSED**.

A review of the file record reveals that a Notice of Abandonment was mailed on September 17, 2004 because of applicants' failure to respond to the Office action (Restriction Requirement), mailed February 17, 2004, that set a one-month shortened statutory period for response.

The petition indicates that a response was filed by mail on March 17, 2004. In support thereof, petitioner submits a copy of a response, which includes a Certificate of Mailing signed by Christine M. Wipper, and dated March 17, 2004. Petitioner further includes a copy of a postcard receipt dated March 22, 2004. Since the postcard receipt has a date stamp outside the period for reply, which ended at midnight on March 17, 2004, and no extensions of time were purchased, applicants cannot rely on the postcard receipt and must rely on the Certificate of Mailing, dated March 17, 2004, to show that the response was timely filed.

Any petition to withdraw the holding of abandonment based upon a Certificate of Mailing must provide the following:

(1) A copy of the original response bearing a signed Certificate of Mailing which includes the date of signing; and

(2) A statement under 37 CFR 1.8(b)(3) by the person who signed the certificate attesting to the personal knowledge of mailing the response on the date indicated on the Certificate of Mailing (see 37 CFR 1.8 and MPEP 512).

While meeting requirement (1) above, the petition fails under requirement (2) to provide a proper statement under 37 CFR 1.8(b)(3) attesting to personal knowledge of sending the original response by mail on the date indicated on the certificate, by the person who signed the certificate, in this instance Christine M. Wipper.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(b) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition to Withdraw the Holding of Abandonment Under 37 CFR 1.181."

Steven N. Meyers
Special Programs Examiner
Patent Technology Center 3600
(703) 308-3868

SNM/rwg: 12/08/04

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JANSSON, SHUPE & MUNGER & ANTARAMIAN, LTD
245 MAIN STREET
RACINE WI 53403

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TECHNOLOGY CENTER 3600

In re Application of
Pamela S. Price
Application No. 10/376,471
Filed: February 28, 2003
For: ROLLER WITH INTEGRAL BEARING ASSEMBLY MOUNT AND METHOD FOR MANUFACTURING SAME

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in response to the renewed petition to withdraw holding of abandonment under 37 CFR 1.181 received January 24, 2005. There is no fee for this petition.

The petition is **GRANTED** in view of the following evidence of timely filing:

☐ Postcard receipt being dated _____.

☐ USPTO return facsimile receipt dated _____.

☐ Certificate of Mailing/Transmission signed on _____, and supported by a statement under 37 C.F.R. 1.8(b)(3).

☐ Hand Delivery Receipt of the specific documents submitted, dated _____.

☐ Certificate of Transmission of CPA under 37 C.F.R. 1.6 filed on _____.

☐ Express Mail Receipt under 37 C.F.R. 1.10 dated _____.

☒ Originally sent response, received March 22, 2004 with a Certificate of mailing dated March 17, 2004, which was incorrectly identified by application serial number 10/376,476. The original copy of the response was found and scanned into the instant application file.

This application is being forwarded to the Supervisory Legal Instruments Examiner for withdrawal of the abandonment and entry of the March 17, 2004 response, and then to the examiner for prompt action.

RAR/rjc: 10/03/05

KENNETH J. DORNER
SPECIAL PROGRAMS EXAMINER
TECHNOLOGY CENTER 3600

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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#10

CHRISTIE, PARKER & HALE, LLP
P.O. BOX 7068
PASADENA CA 91109-7068

In re Application of	:	
Samuel L. Say	:	DECISION PETITION
Serial No.: 10/376,496	:	
Filed: February 28, 2003	:	
For: Portable Battery Operated Aspirator	:	

This is in response to applicants' petition filed September 28, 2004, to make the above-identified application special under the provisions of 37 CFR 1.102(c), based on age of applicant.

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, IV. Therefore the petition is **GRANTED**.

The application will be forwarded to the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact Richard A. Bertsch by letter addressed to the Director, Technology Center 3700, P.O. Box 1450 Alexandria, VA 22313-1450, or by telephone at (571)272-4050 or by facsimile transmission at (571)273-0275.

Richard A. Bertsch
Director,
Technology Center 3700

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OYEN, WIGGS, GREEN & MUTALA LLP
480 - THE STATION
601 WEST CORDOVA STREET
VANCOUVER BC V6B 1G1 CA CANADA

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OFFICE OF PETITIONS

ON PETITION

In re Application of
Douglas Manness
Application No. 10/376,500
Filed: March 3, 2003
Attorney Docket No. C525 201 GNM/cc

This is a decision on the petition filed December 15, 2005, to revive the above identified application under 37 CFR 1.137(b)[1].

The petition under 37 CFR 1.137(b) is **GRANTED**.

This application became abandoned on November 19, 2004, for failure to file a timely response to a Restriction Requirement mailed October 18, 2004, which set a one month shortened statutory period for reply. No extensions of the time for reply under 37 CFR 1.136(a) were obtained prior to the abandonment of the application. Accordingly, a Notice of Abandonment was mailed June 28, 2005.

The petition fee in the amount of $1500.00 has been charged to deposit account no. 05-0225 and applied to the finance records for the instant patent application. Deposit account no. 05-0225 has also been credited in the amount of $1020.00 for the three month extension of time request filed with the instant petition. Pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the $1020.00 extension of time fee submitted with the petition on December 15, 2005, was subsequent to the maximum period obtainable for reply, this fee is unnecessary

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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 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)).

Additionally, there is no indication that petitioner herein was ever empowered to prosecute the instant application. If petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision will be mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

The response to the Restriction Requirement filed December 15, 2005 will be referred to Technology Center 1756 for further processing.

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

cc:
DONNA P. SUCHY/TAM
EASTMAN KODAK COMPANY
343 STATE STREET
ROCHESTER, NY 14650-2201

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OFFICE OF PETITIONS

STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

In re Application of :
Kenichi Tadokoro et al. :
Application No. 10/376,501 : DECISION GRANTING PETITION
Filed: March 3, 2003 :
Attorney Docket Number: 1095.1261 :

This is a decision on the petition to withdraw the holding of abandonment, filed September 25, 2006 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 for failure to timely respond to a non-Final Office Action mailed March 20, 2006. The instant petition and this decision precede the mailing of the Notice of Abandonment.

The file record discloses that the non-Final Office Action was mailed March 20, 2006 to the address of record. However, petitioner contends that it was not received. In support of this contention, petitioner argues that a search of the file jacket and the docket records does not reveal that the office communication was received and further, includes copies from the docketing system, wherein receipt of the non-Final Office Action would have been entered, had it been received.

Additionally, a review of the USPTO files reveal that the office communication was returned to the USPTO by the United States Postal Service on March 23, 2006 and no apparent reason can be determined since it appears that the address of record was placed on the correspondence.

In view of the facts set forth in the petition, it is concluded that the non-Final Office Action was never received. Accordingly, the holding of abandonment is withdrawn. No petition fee is due and none has been charged.

This matter is being referred to Technology Center 3714 for a re-mailing of the non-Final Office Action, previously mailed March 20, 2006 but not received.

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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OGILVY RENAULT LLP
1981 McGILL COLLEGE AVENUE
SUITE 1600
MONTREAL, QC, CANADA H3A 2Y3

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JUL 13 2006

OFFICE OF PETITIONS

In re Application of :
Nouredine Fakhri :
Application No. 10/376,507 : DECISION ON PETITION
Filed: March 3, 2003 : TO WITHDRAW
Attorney Docket No. 15779-1US RC/iw : 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, 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 Patrice Prèville on behalf of all the attorneys associated with Customer Number 20988. Accordingly, all the practitioners associated with Customer Number 20988 have been withdrawn. Applicant is reminded that, in view of the withdrawal of the practitioners associated with the above-noted customer number, there is no attorney of record in this application. All future communications regarding this application will be directed to the applicant at the below-listed address.

A non-final Office action was mailed on January 23, 2006 and a reply thereto by applicant was received on April 24, 2006. Accordingly, the Examiner assigned to this application will take action on the reply in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

cc:

Nouredine Fakhri
CP 441, Succi Saint Leonard
Saint Leonard, Quebec, Canada H1S 2Z3

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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
10/376,523	02/27/2003	2632	750	034299-495	1	10	2

CONFIRMATION NO. 1053

Robert E. Krebs
THELEN REID & PRIEST LLP
P.O. Box 640640
San Jose, CA 95164-0640

CORRECTED FILING RECEIPT

OC000000011352362

Date Mailed: 11/28/2003

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Rene Ceccom, Saiguede, FRANCE;
Claude Pichavant, Toulouse, FRANCE;

Domestic Priority data as claimed by applicant

Foreign Applications

FRANCE 02 02621 03/01/2002

If Required, Foreign Filing License Granted: 04/01/2003

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Distress beacon, process and device for monitoring distress signals, and vehicle on which such a device is installed

Preliminary Class

340

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JAMES A. QUINTON
Suite 1210
551 Fifth Avenue
New York NY 10176

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JAN 12 2006

OFFICE OF PETITIONS

In re Patent No. 6,787,075 :
Issued: September 7, 2004 :
Application No. 10/376,580 : DECISION ON PETITION
Filed: February 28, 2003 :
Attorney Docket No. 440-1 :

This is a decision on the petition under 37 CFR 1.182, filed July 29, 2005, requesting a duplicate Letters Patent. The petition was recently forwarded to the Office of Petitions for a decision on the merits. The Office sincerely apologizes for any inconvenience to petitioner.

The petition is **dismissed**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.182."

Initially, the Office notes that a request for a duplicate Letters Patent may be granted in two situations: 1) due to the loss of the original Letters Patent either by the law firm, applicant or assignee, or the destruction of the Letters Patent (petition fee required); or 2) due to non-receipt of the Letters Patent (no petition fee required).

In the first situation, petitioner should provide a statement from a person with first-hand knowledge of the events, attesting to the fact that the original Letters Patent was either lost or destroyed. Additionally, a $400.00 petition fee is required.

In the second situation, the showing required for issuance of a duplicate Letters Patent with no fee due to non-receipt is the same as that set forth in the Manual for Patent Examining Procedure, Section 711.03(c), under the subheading "Petitions to Withdraw the Holding of Abandonment."

The showing required to establish non-receipt of an Office communication must include:

1. A statement from the practitioner attesting to the fact that the practitioner did not receive the Office communication and that a search of the file jacket and docket records indicates that the Office communication was not received.

2. A copy of the docket records 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.

In this instance, petitioner did not state the reason for filing this request for a duplicate Letters Patent. Accordingly, the petition is **dismissed**. With any request for reconsideration, petitioner must indicate the reason for the request for a duplicate Letters Patent and provide the necessary showing as indicated above.

Petitioner submitted a $130.00 fee for the filing of the present petition. The current petition fee is $400.00. The Office will charge petitioner's Deposit Account the difference of $270.00, as authorized.

Further correspondence with respect to this matter should be addressed as follows and **to the attention of Christina Tartera Donnell, Senior Petitions Attorney**:

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) 272-3211.

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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www.uspto.gov

JAMES A. QUINTON
Suite 1210
551 Fifth Avenue
New York NY 10176

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JUN 29 2006

OFFICE OF PETITIONS

In re Patent No. 6,787,075 :
Issued: September 7, 2004 :
Application No. 10/376,580 : DECISION ON PETITION
Filed: February 28, 2003 :
Attorney Docket No. 440-1 :

This is a decision on the renewed petition under 37 CFR 1.182, filed March 20, 2006, requesting issuance of duplicate Letters Patent for the above-identified application.

The petition is **granted**.

The Office of Patent Publication is directed to issue duplicate Letters Patent.

A copy of this decision is being forwarded to Office of Patent Publication for issuance of duplicate Letters Patent.

Any questions concerning this matter may be directed to the Office of Patent Publication at (571) 272-4200.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions
(571) 272-3211

cc: Krystal Paige
Fax Number: 571-270-9937

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UNITED STATES PATENT AND TRADEMARK OFFICE MAY 11 2006

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www.uspto.gov

ROTHWELL, FIGG, ERNST & MANBECK, P.C.
1425 K STREET, N.W.
SUITE 800
WASHINGTON, DC 20005

In re application of	:	**DECISION ON PETITION**
John Krowas et al.	:	**TO MAKE SPECIAL**
Application No. 10/376,599	:	**(ACCELERATED**
Filed: March 3, 2003	:	**EXAMINATION)**
For: MINIMIZING SECURITY HOLDINGS RISK	:	
DURING PORTFOLIO TRADING	:	

This is in response to the petition filed on May 3, 2006 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

Since all of the requirements for special status under MPEP § 708.02 VIII have been met, the petition is **GRANTED**.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED.**

Steven N. Meyers
Special Programs Examiner
Technology Center 3600
571-272-6611

SNM/dew: 05/10/06

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OCT 03 2005

TECHNOLOGY CENTER 3600

ROTHWELL FIGGERNST AND
MANBECK PC
1425 K STREET NW
SUITE 800
WASHINGTON, DC 20005

In re application of : **DECISION ON PETITION**
Tomas Bok et al. : **TO MAKE SPECIAL**
Application No. 10/376,600 : **(ACCELERATED**
Filed: March 03, 2003 : **EXAMINATION)**
For: DYNAMIC AGGRESSIVE/PASSIVE PEGGED TRADING

This is in response to the petition filed on August 24, 2006 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

Since all of the requirements for special status under MPEP § 708.02 VIII have been met, the petition is **GRANTED**.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED.**

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(571) 272-6587

KJD/slb: 09/13/06

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 5

BRINKS, HOFER, GILSON & LIONE
455 N. CITYFRONT PLAZA
SUITE 3600
CHICAGO, IL 60611

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SEP 15 2003

OFFICE OF PETITIONS

In re Application of
Fabrice J. Malard, John Loudenslager and Albert Gamal
Application No.10/376,650
Filed: February 28, 2003
Attorney Docket Number: 5658/874
Title of Invention: MANUAL LEVELING ROTATING LASER WITH SWIVEL HEAD

DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed July 24, 2003.

The petition is GRANTED.

Petitioner has shown that the non-signing inventors have refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the declaration of facts attest copies of the application were sent to the non-signing inventors' last known addresses via UPS. Petitioner has provided evidence of receipt. The non-signing inventors' failure to respond to the application sufficiently establishes that inventors Malard and Gamal refuse to execute the application papers.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition. However, the Office will mail all future correspondence solely to the address of record.

This application is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 306-0251.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Fabrice J. Malard
6 Rue d' Lssy
92100 Boulogne Billancourt
France

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SEP 15 2003

OFFICE OF PETITIONS

In re Application of
Fabrice J. Malard, John Loudenslager and
Albert Gamal
Application No.10/376,650
Filed: February 28, 2003
Attorney Docket Number: 5658/874
Title of Invention: MANUAL LEVELING
ROTATING LASER WITH SWIVEL HEAD

: LETTER

Dear Mr. Malard:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 C.F.R. § 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost as per 37 C.F.R. § 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, applicant (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. § 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Charlema R. Grant at (703) 306-0251. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Charlema R. Grant
Petitions Attorney
Office of Petitions

David W. Okey
BRINKS, HOFER, GILSON & LIONE
P.O. Box 10395
CHICAGO IL 60611

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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Albert Gamal
27 Bd. Littre
F-78600 Le Mesnil le Roi
France

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SEP 15 2003

OFFICE OF PETITIONS

In re Application of
Fabrice J. Malard, John Loudenslager and
Albert Gamal
Application No.10/376,650
Filed: February 28, 2003
Attorney Docket Number: 5658/874
Title of Invention: MANUAL LEVELING
ROTATING LASER WITH SWIVEL HEAD

: LETTER

Dear Mr. Gamal

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 C.F.R. § 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost as per 37 C.F.R. § 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, applicant (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. § 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Charlema R. Grant at (703) 306-0251. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Charlema R. Grant
Petitions Attorney
Office of Petitions

David W. Okey
BRINKS, HOFER, GILSON & LIONE
P.O. Box 10395
CHICAGO IL 60611

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LAW OFFICE OF JAY R. HAMILTON PLC
331 W. 3RD STREET
NEW VENTURES CENTER, SUITE 100
DAVENPORT, IA 52801

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OFFICE OF PETITIONS

In re Application of :
Marion Calmer :
Application No. 10/376,657 : DECISION ON PETITION
Filed: February 28, 2003 :
Attorney Docket No. P4008 :

This is a decision on the petition under 37 CFR 1.137(b), filed December 29, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed November 17, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, the application became abandoned on February 18, 2006. A Notice of Abandonment was mailed on December 15, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the required reply in the form of a request for continued examination, $395 filing fee, and submission as required by 37 CFR 1.114, (2) the petition fee of $750, and (3) a proper statement of unintentional delay. Accordingly, the failure to timely reply to the final Office action of November 17, 2005 is accepted as being unintentionally delayed.

This application is being referred to Technology Center AU 3671 for processing the request for continued examination and for appropriate action in the normal course of business on the submission under 37 CFR 1.114 received December 29, 2006.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

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Law Office of Jay R. Hamilton, PLC.
Registered U.S. Patent Attorney
J.D., M.B.A., B.S.Ch.E.
Attorney at Law Licensed to Practice in Iowa and Illinois
331 W. 3rd St. NewVentures Center Suite 120 Davenport, IA 52801
Tel (563)441-0207 • Fax (563)823-4637
Website: www.qcpatents.com Email: jay@qcpatents.com

PATENT
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Marion Calmer	)	
	)	
	)	Examiner: N/A
Serial No.: 10/376,657	)	
	)	
Filed: 02/28/2003	)	Art Unit: 3671
	)	
For: Corn Head Row Unit	)	
	)	Docket No.: P4008

Certificate of Transmission under 37 CFR 1.8

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office central facsimile number (571) ~~272-6997~~ 273-8300 on August 10, 2007.

Signature

Jay R. Hamilton – Registered U.S. Patent Attorney #50,644
Typed or printed name of person signing certificate of mailing.

Note: Each paper must have its own certificate of transmission, or this certificate must identify each submitted paper.

1. Transmittal Form
2. Correspondence & "COPY" of Granted Decision on Petition

Total Pages Sent by Fax 4 (including this page)

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PTO/SB/21 (03-03)
Approved for use through 04/30/2003. OMB 0651-0031
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Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission: 4

Application Number	10/376,657
Filing Date	02/28/2003
First Named Inventor	Marion Calmer
Art Unit	3671
Examiner Name	Alicia M. Torres
Attorney Docket Number	P4008

ENCLOSURES *(Check all that apply)*

- ☐ Fee Transmittal Form
  - ☐ Fee Attached
- ☐ Amendment/Reply
  - ☐ After Final
  - ☐ Affidavits/declaration(s)
- ☐ Extension of Time Request
- ☐ Express Abandonment Request
- ☐ Information Disclosure Statement
- ☐ Certified Copy of Priority Document(s)
- ☐ Response to Missing Parts/ Incomplete Application
  - ☐ Response to Missing Parts under 37 CFR 1.52 or 1.53
- ☐ Drawing(s)
- ☐ Licensing-related Papers
- ☐ Petition
- ☐ Petition to Convert to a Provisional Application
- ☐ Power of Attorney, Revocation Change of Correspondence Address
- ☐ Terminal Disclaimer
- ☐ Request for Refund
- ☐ CD, Number of CD(s) _____
- ☐ After Allowance Communication to a Technology Center (TC)
- ☐ Appeal Communication to Board of Appeals and Interferences
- ☐ Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)
- ☐ Proprietary Information
- ☐ Status Letter
- ☑ Other Enclosure(s) (please identify below):

Remarks

Correspondence & Copy of GRANTED "Decision on Petition"

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual	Law Office of Jay R. Hamilton, PLC.
Signature	
Date	August 10, 2007

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, Washington, DC 20231 on this date: _____

Typed or printed	Jay R. Hamilton		
Signature		Date	08/10/2007

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, Washington, DC 20231.**

If you need assistance in completing the form, call 1-800-PTO-9199 (1-800-786-9199) and select option 2.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Marion Calmer	)	
Serial No.: 10/376,657	)	
Attorney Docket No.: P4008	)	PETITION FOR REVIVAL OF PATENT APPLICATION
Filed: 02/28/2003	)	**GRANTED**
For: Corn Head Row Unit	)	

Art Group 3671
Supervisory Patent Examiner

Dear Sir or Madam:

The purpose of this letter is to confirm with you that the Office of Petitions has granted applicant's petition for revival for his patent application. See enclosed notice. My client and I are available as needed to assist the assigned examiner with any issues or questions he or she may have.

Respectfully submitted,

Marion Calmer

Date: August 10, 2007

By _____
Jay R. Hamilton
Reg. No. 50,644

Law Office of Jay R. Hamilton, PLC
U.S. Patent Attorney
331 West 3rd Street, Suite 120
Davenport, Iowa 52801
Tel (563) 441-0207
Fax (563) 823-4637

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331 W. 3RD STREET
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DAVENPORT, IA 52801

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JUL 06 2007

OFFICE OF PETITIONS

In re Application of :
Marion Calmer :
Application No. 10/376,657 : DECISION ON PETITION
Filed: February 28, 2003 :
Attorney Docket No. P4008 :

This is a decision on the petition under 37 CFR 1.137(b), filed December 29, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed November 17, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, the application became abandoned on February 18, 2006. A Notice of Abandonment was mailed on December 15, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the required reply in the form of a request for continued examination, $395 filing fee, and submission as required by 37 CFR 1.114, (2) the petition fee of $750, and (3) a proper statement of unintentional delay. Accordingly, the failure to timely reply to the final Office action of November 17, 2005 is accepted as being unintentionally delayed.

This application is being referred to Technology Center AU 3671 for processing the request for continued examination and for appropriate action in the normal course of business on the submission under 37 CFR 1.114 received December 29, 2006.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

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UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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DEC 02 2004

Klarquist Sparkman, LLP
One World Trade Center, Suite 1600
121 S.W. Salmon Street
Portland, OR 97204

Paper No. 18

In re Application of	:	DECISION ON PETITION
Peter Joseph Kallen	:	TO WITHDRAW
Serial No. : 10/376,671	:	HOLDING OF
Filed : February 26, 2003	:	ABANDONMENT
For : Equestrian Pants	:	

This is a decision on petitioner's request filed August 9, 2004, to review the holding of abandonment mailed July 23, 2004, for failure to respond to the Office action mailed December 9, 2003. There is no fee required for this petition.

In support of the request, petitioner has submitted a copy of a response, a copy of a one-month extension of time request, and a copy of a PTO stamped receipt dated April 12, 2004 as evidence of the timely filing of a response. The April 12, 2004 communication included a certificate of mailing dated April 9, 2004.

In view of the above, the Notice of Abandonment mailed July 23, 2004 is in error and is hereby vacated. The holding of abandonment is withdrawn. Upon the mailing of this decision, the application will be forwarded to the Examiner via the Legal Instruments Examiner for entry and consideration of the response filed April 12, 2004.

Summary: Holding of Abandonment Withdrawn.

John E. Kittle, Director
Groups 3730 and 3760
Phone: (571) 272-2975

ak/11/19/04

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Paper No. 110105

JAMES D. WELCH
10328 PINEHURST AVE.
OMAHA NE 68124

In re Application of:	:	
Woollam ET AL.	:	PETITION FOR CORRECTION OF
Serial No.: 10/376,677	:	INVENTORSHIP
Filed: September 7, 2001	:	UNDER 37 CFR § 1.48(a)
Attorney Docket No.:	:	

This is a decision on the petition filed April 12, 2005 to correct inventorship under 37 CFR 1.48(a).

The petition is granted.

In view of the papers filed June 10, 2005, the inventorship of this nonprovisional application has been changed by the addition of:

Gerald T. COONEY.

The application will be forwarded to the Office of Initial Patent Examination (OIPE) for issuance of a corrected filing receipt, and correction of Office records to reflect the inventorship as corrected.

Gregory J. Toatley, Jr.
Supervisory Patent Examiner,
Art Unit 2877

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
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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)
6,914,211	2005-07-05	10/376,688	2003-02-27	13384-482

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	/kelly k burris/	Date (YYYY-MM-DD)	2009-08-05
Name	Kelly K. Burris	Registration Number	46361

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6914211
Issue Date: July 5,2005
Application No. 10376688
Filed: February 27,2003
Attorney Docket No. 13384-482

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed August 5,2009 ,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 August 5,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 7/1/09

TO SPE OF : ART UNIT 2439

SUBJECT : Request for Certificate of Correction for Appl. No.: 10376693 Patent No.: 7444675 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (C of C)
Randolph Square 9D40-D
Palm Location 7580

You can fax the 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.

- [X] **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: Approved All

/KAMBIZ ZAND/ 2434

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

SPE Art Unit