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

COPY MAILED
JUL 17 2006
OFFICE OF PETITIONS

In re Application of :
Kobayashi et al. :
Application No. 10/376,694 :
Filed: March 3, 2003 :
Patent No: 6,764,902 :
Issued: July 20, 2004 :
Title of Invention: METHOD OF :
MANUFACTURING SEMICONDUCTOR DEVICE :

This is a decision on the petition filed June 8, 2005, under to 37 C.F.R. § 1.183, to correct the assignee data in the above-identified patent after payment of the issue fee. The petition is properly treated as a request under 37 CFR 3.81(b)[1].

The Petition is **granted**.

The address on the petition is different from the address of record. If Petitioner desires to receive further correspondence with respect to this application, a change of correspondence address must be filed. A courtesy copy of this Decision is being forwarded to Petitioner at the address appearing on the petition; however, all future correspondence will be sent to address of record until instructions to the contrary are received.

Patentee is further advised that, in patented files: requests for changes of correspondence address, powers of attorney, revocations of powers of attorney, withdrawal of attorney and submissions under 37 CFR 1.501. Designation of, or changes to, a fee address should be addressed to Mail Stop M Correspondence, Director of the U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450.

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

[1] See, 1283 OG 148 22 June 2004, 69 Fed. Reg. 29865 26 May 2004

issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

The application is being referred to the Certificate of Corrections Branch for issuance of the requested Certificate of Correction.

Derek L. Woods
Attorney
Office of Petitions

15 MAY 2003

#3

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

Robin L. Teskin
PILLSBURY WINTHROP LLP
1600 Tysons Blvd.
McLean, VA 22102

In re Application of
ROBL, James M. *et al*
U.S. Application No.: 10/376,735
Filing Date: 25 February 2003
Attorney Docket No.: 291868
For: PRODUCTION OF MAMMALS WHICH PRODUCE PROGENY OF A SINGLE SEX

DECISION ON PETITION FOR REVIVAL UNDER 37 CFR 1.137(b)

This decision is in response to applicants' petition filed 25 February 2003 to revive international application PCT/US01/05932 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/US01/05932 became abandoned as to the United States of America for failure to pay the basic national fee by 25 August 2002. 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 $650.00 petition to revive fee for a small entity has been charged to Deposit Account No. 03-3975 as authorized. Applicants' statement satisfies the requirement of 37 CFR 1.137(b)(3).

International application PCT/US01/05932 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 10/376,735.

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 25 February 2003.

James Thomson
Attorney Advisor
PCT Legal Office

Tel.: (703) 308-6457

UNITED STATES
PATENT AND
TRADEMARK OFFICE

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

Paper No.

Mathew E. Langer
Hale and Dorr, LLP
300 Park Avenue
New York, New York 10022

Date: July 6, 2004
Application No. 10/376,746
Filed: February 28, 2003
Subject: **ISOQUINOLINE DERIVATIVES AND METHOD OF USE THEREOF**

ON PETITION
37 CFR 1.48(b)

Receipt is acknowledged of the petitions filed January 16, 2003, under 37 CFR 1.48(b) for correction of inventorship. The petition has been **GRANTED**.

In view of the papers filed , it has been found that this non-provisional application, as filed, through error and without deceptive intent, improperly set forth the Inventorship, and accordingly, this application has been changed by the **DELETION of Aloka Roy, William Williams, and Alexander Nivoroshkin**. The application will be forwarded to the Office of Initial Patent Examination (OIPE) for issuance of a corrected filing receipt, and correction of the file jacket and PTO PALM data to reflect the inventorship as corrected.

THURMAN K. PAGE, M.A., J.D.
SUPERVISORY PATENT EXAMINER

THURMAN K. PAGE
United States Patent and Trademark Office
Technology Center 1600
SPE, ART UNIT 1615
Remsen 4A81
571-272-0602

UNITED STATES
PATENT AND
TRADEMARK OFFICE

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

Paper No.

Mathew E. Langer
Hale and Dorr, LLP
300 Park Avenue
New York, New York 10022

Date: July 6, 2004
Application No. 10/376,746
Filed: February 28, 2003
Subject: **ISOQUINOLINE DERIVATIVES AND METHOD OF USE THEREOF**

ON PETITION
37 CFR 1.48(b)

Receipt is acknowledged of the petitions filed January 16, 2003, under 37 CFR 1.48(b) for correction of inventorship. The petition has been **GRANTED**.

In view of the papers filed , it has been found that this non-provisional application, as filed, through error and without deceptive intent, improperly set forth the Inventorship, and accordingly, this application has been changed by the **DELETION of Aloka Roy, William Williams, and Alexander Nivoroshkin**. The application will be forwarded to the Office of Initial Patent Examination (OIPE) for issuance of a corrected filing receipt, and correction of the file jacket and PTO PALM data to reflect the inventorship as corrected.

THURMAN K. PAGE, M.A., J.D.
SUPERVISORY PATENT EXAMINER

THURMAN K. PAGE
United States Patent and Trademark Office
Technology Center 1600
SPE, ART UNIT 1615
Remsen 4A81
571-272-0602

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

WILMER CUTLER PICKERING HALE AND DORR LLP
399 PARK AVENUE
NEW YORK NY 10022

In re Patent No. 6,956,035, JAGTOP ET AL Issue Date: October 18, 2005 Appl No.: 10/376,746 Filed: February 28, 2003 For: Correction of Inventorship	**DECISION GRANTING PETITION** *37 CFR 1.324*

This is a decision on the petition filed June 6, 2006, to correct inventorship under 37 CFR 1.324.

The petition is granted.

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

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
www.uspto.gov

PATRICK W. RASCHE
ARMSTRONG TEASDALE
SUITE 2600
ONE METROPOLITAN SQUARE
ST. LOUIS, MO 63102

COPY MAILED

NOV 0 8 2004

OFFICE OF PETITIONS

In re Application of	:	
Kazuya Hoshino	:	
Application No. 10/376,760	:	ON PETITION
Filed: February 27, 2003	:	
Attorney Docket No. 16NM01226	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 7, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue/publication fee in a timely manner in reply to the Notice of Allowance mailed June 25, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on September 28, 2004.

The above-identified application became abandoned for failure to timely pay the issue/publication fee. In an application or patent, abandoned or lapsed for failure to pay the issue/publication fee or any portion thereof, the required reply must be the payment of the issue/publication fee or any outstanding balance thereof. See MPEP 711.03(c)(III)(A)(1). Therefore, the filing of a continuing application is not a proper reply under 37 CFR 1.137(a)(1) or (b)(1). In view of the authorization contained in the petition to change any additional fees due, the $1,670.00 issue fee will be charged to Deposit Account No.01-2384. The issue fee is not refundable. 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]

---

[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 above-identified application is being revived solely for consideration of a submission under 37 CFR 1.114 (request for continued examination).

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 2859 for processing of the request for continued examination under 37 CFR 1.114.

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

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

GROSSMAN, TUCKER, PERREAULT & PFLEGER, PLLC
55 SOUTH COMMERICAL STREET
MANCHESTER NH 03101

COPY MAILED

MAR 2 0 2007

OFFICE OF PETITIONS

In re Application of	:	
BRANAGAN	:	
Application No.: 10/376,779	:	DECISION ON PETITION
Filing Date: February 28, 2003	:	UNDER 37 CFR 1.137(b)
Attorney Docket No.: NANO009	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 6, 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 February 15, 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, by operation of law, the above-identified application became abandoned on May 15, 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 an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Office action mailed February 15, 2006, is accepted as having been unintentionally delayed.

This application is being referred to Technology Center AU 1714 for appropriate action, if any, on the reply in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3301.

Daniel Stemmer
Legal Examiner
Office of the Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 06/15/05

TO SPE OF : ART UNIT 2833

SUBJECT : Request for Certificate of Correction on Patent No.: 10/376780 6860748

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

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

Thank You For Your Assistance

Angela Green
Certificates of Correction Branch
Tel. No. 703-305-9380 ext. 123

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

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

Comments:

P. AUSTIN BRADLEY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

SPE — **Art Unit** 2833

OIPE JC109
MAY 0 9 2005
PATENT & TRADEMARK OFFICE

10/376780

C of C

IN THE
UNITED STATES PATENT & TRADEMARK OFFICE

APPLICANT: H. Ohtani and Y. Saito	)
CASE: 200380-9040	) REQUEST FOR CERTIFICATE OF CORRECTION
PATENT NO.: 6,860,748	)
GRANTED ON: March 1, 2005	)
FOR: Connector With Control Mechanism of Engagement With Mating Connector	)

Certificate
MAY 1 3 2005
of Correction

COMMISSIONER FOR PATENTS
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450

Dear Sir:

[X] AUTHORIZATION TO PAY AND PETITION FOR THE ACCEPTANCE OF ANY NECESSARY FEES. If any charges or fees must be paid in connection with the following Communication (including but not limited to the payment of issue fees), they may be paid out of our deposit account No. 50-1965. If this payment also requires a Petition, please construe this authorization to pay as the necessary Petition which is required to accompany the payment.

REQUEST FOR CERTIFICATE OF CORRECTION

Patentee respectfully requests a Certificate of Correction to be issued for the above identified U.S. Patent correcting it as noted in the attached "CERTIFICATE OF CORRECTION", form PTO/SB/44. Duplicate copies of the form are attached hereto.

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first-class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313 on: May 6, 2005.

Name of Person Signing: Jason Berta

Signature: _____

	Registration
Charles A. Laff	19787
Larry L. Saret	27674
Martin L. Stern	28911
Lisa C. Childs	39937

MICHAEL BEST & FRIEDRICH LLP
Attorneys at Law
401 North Michigan Avenue, Suite 1900
Chicago, IL 60611
(312) 222-0800

MAY 2 0 2005

The patent has been proofread and the following typographical errors have been found. The errors listed on the Certificate of Correction form were incurred through our fault as will be disclosed by the records of files in the Office. As required, the applicant will pay a $100 Certificate of Correction fee. The statement at the heading of this communication gives our authorization to pay such fees from our regular deposit account number 50-1965.

Respectfully submitted,

MICHAEL BEST & FRIEDRICH LLP

By: Lisa C. Childs Reg. No. 39,937
Lisa C. Childs

Dated: May 6, 2005

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

PATENT NO. : 6,860,748

DATED : March 1, 2005

INVENTOR(S) : Hideyuki Ohtani and Yosuke Saito

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

Column 3, Line 50: Delete "two lock spring 6" and insert --two lock springs 6--
Column 5, Line 11: Delete "two lock spring 26" and insert --two lock springs 26--
Column 5, Line 52 and Column 5, Line 54: Delete "groove 27" and insert --groove 27E--
Column 6, Line 38 and Column 6, Line 43: Delete "pockets 22A7" and insert --pockets 42A7--
Column 6, Line 53: Delete "two lock spring 46" and insert --two lock springs 46--
Column 7, Line 49: Insert --50B-- after "grip portion" [first occurrence]
Column 7, Line 50: Delete "the pin 51" and insert --a pin 51--
Column 8, Line 2: Insert --arranged-- after "also"

MAILING ADDRESS OF SENDER:

Michael Best & Friedrich LLP
401 N Michigan Ave, Suite 1900
Chicago, IL 60611

PATENT NO. 6,860,748

No. of additional copies

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

MAY 20 2005

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

LUCAS & MERCANTI, LLP
475 PARK AVENUE SOUTH
15TH FLOOR
NEW YORK NY 10016

COPY MAILED
FEB 19 2010

In re Application of	:	
Sasaki et al.	:	
Application No. 10/376,801	:	DECISION ON PETITION
Filed: February 28, 2003	:	
Attorney Docket No. TASH-6	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 8, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely submit Corrected Drawings on or before November 19, 2009, as required by the Notice of Allowability mailed August 19, 2009. Accordingly, the date of abandonment of this application is November 20, 2009. A Notice of Abandonment was mailed December 4, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of Corrected Drawings; (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay.

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

This application is being referred to the Office of Data Management for processing into a patent and review of the Corrected Drawings submitted on December 8, 2009.

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JJGJR.: 06-06

Paper No: __

FREESCALE SEMICONDUCTOR, INC.
LAW DEPARTMENT
7700 WEST PARMER LANE MD:TX32/PL02
AUSTIN TX 78729

COPY MAILED

JUN 27 2006

OFFICE OF PETITIONS

In re Application of :
Arends, et al. :
Application No. 10/376,816 :
Filed: 28 January, 2003 :
Attorney Docket No. 57354-13USA :

ON PETITION

This is a decision on a petition filed on 10 April, 2006, under 37 C.F.R. §1.137(b).

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

BACKGROUND

The record indicates:

- Petitioner failed to reply timely to the non-final Office action mailed on 21 March, 2005, with reply due absent extension of time on or before 21 June, 2005;
- the instant application went abandoned by operation of law after midnight 21 June, 2005;
- the Office mailed the Notice of Abandonment on 16 March, 2006;
- Petitioner filed the instant petition on 10 April, 2006, with, *inter alia*, a reply in the form of an amendment, and made the statement of unintentional delay–thus, Petitioner appears to have satisfied the regulatory requirements under 37 C.F.R. §1.137(b)–it is noted that

the instant petition was filed some ten months after abandonment, and extended delays may be deemed inconsistent with the diligence required as to patent matters;[1]

- out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

---

[1] For more than a century, punctuality and due diligence, equally with good faith, have been deemed essential requisites to the success of those who seek to obtain the special privileges of the patent law, and they are demanded in the interest of the public and for the protection of rival inventors. See: Porter v. Louden, 7 App.D.C. 64 (C.A.D.C. 1895), citing Wollensak v. Sargent, 151 U.S. 221, 228, 38 L. Ed. 137, 14 S. Ct. 291 (1894). An invention benefits no one unless it is made public, and the rule of diligence should be so applied as to encourage reasonable promptness in conferring this benefit upon the public. Automatic Electric Co. v. Dyson, 52 App. D.C. 82; 281 F. 586 (C.A.D.C. 1922). Generally, 35 U.S.C. §6; 37 C.F.R.§§1.181, 182, 183.

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

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

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

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

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

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

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

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

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

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

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

STATUTES, REGULATIONS AND ANALYSIS

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

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

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

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

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

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

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

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

Allegations as to
Unintentional Delay

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

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

CONCLUSION

Because Petitioner appears to have satisfied the regulatory requirements, regulation, the petition under 37 C.F.R. §1.137(b) is **granted**.

The application is released to the Examiner in Technology Center 2100 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 Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Applied Materials, Inc.
Patent Counsel
P.O. Box 450A
Santa Clara, CA 95052

COPY MAILED
MAY 1 8 2004
OFFICE OF PETITIONS

In re Application of :
Nguyen et al. :
Application No. 10/376,857 : ON PETITION
Filed: February 27, 2003 :
Attorney Docket No. 7836/DISPLAY/AKT/BG :

This is a decision on the petition filed November 6, 2003 to accord the above-identified application a filing date of February 27, 2003, instead of July 3, 2003.

The petition is **granted**.

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.

The application was mailed by Express Mail on February 27, 2003, and was physically received by the Office on March 3, 2003. Per 37 CFR 1.10, the application was entitled to a filing date of February 27, 2003, and was assigned that date.

On May 12, 2003, the Office of Initial Patent Examination mailed a Notice stating that Figure 15 appeared to have been omitted.

On July 3, 2003, petitioner filed a preliminary amendment. The Office entered the amended drawings as part of the original application and changed the filing date to July 3, 2003. However, petitioner had not filed a petition under 37 CFR 1.182 requesting entry of the omitted item along with a later filing date. Therefore, the preliminary amendment should have had no effect on the filing date. Instead, the preliminary amendment should simply have been entered into the file and later, during prosecution, reviewed by the examiner to determine if the amendment seeks to add new matter.

The filing date will be changed back to February 27, 2003.

The Application is being returned to the Office of Initial Patent Examination for further processing with a filing date of February 27, 2003, using only the application papers and drawings filed on February 27, 2003, and entry of the preliminary amendment.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

cc: Keith M Tackett
Moser Patterson & Sheridan LLP
3040 Post Oak Blvd
Suite 1500
Houston, TX 77056

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4/6/2010

TO SPE OF : ART UNIT 2625 (2500)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/376,888 Patent No.: 7,636,492

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

Ernest C. White, LTE
Randolph Sq. Ste 9D62A
703-756-1590

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.

Please enter the corrections to the Patent. The corrections do not change the scope of the invention but are grammatical. /Jerome Grant II/Primary Examiner

SPE _____ **ART UNIT** _____

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SCHWABE, WILLIAMSON & WYATT P.C.
1420 5TH AVENUE, SUITE 3010
SEATTLE, WA 98101

Mail Date: 04/21/2010

Applicant	: Sunanda L. Kommula	: DECISION ON REQUEST FOR
Patent Number	: 7657629	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/376,903	: 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 **872** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

COPY MAILED

JUL 07 2003

OFFICE OF PETITIONS

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS MI 48303

In re Application of
Wilkins, et al.
Application No. 10/376,914
Filed: February 27, 2003
Attorney Docket No. 7784-000489
For: FLIGHT GUIDANCE SYSTEM PROVIDING PERSPECTIVE FLIGHT GUIDANCE SYMBOLOGY

: DECISION GRANTING
: PETITION

This is a decision on the petition under 37 CFR 1.10(c), filed June 6, 2003, requesting that the above-identified application be accorded a filing date of February 27, 2003 rather than the presently accorded filing date of February 27, 2002.

Petitioners request the later filing date on the basis that the application was deposited in Express Mail service of the United States Postal Service (USPS) on February 27, 2003, pursuant to the requirements of 37 CFR 1.10. The petition is accompanied by a copy of Express Mail label no. EL835741795US showing a "date-in" of 2/27/03 **and** a USPS date stamp of FEB 27 2003. The same Express Mail label number is listed on the original Utility Patent Application Transmittal found in the application file.

The evidence presented establishes that the Express Mail package associated with Express Mail label no. EL835741795US was deposited with the USPS on February 27, 2003.

Accordingly, the petition is granted.

No fee has been or will be charged in connection with this petition.

The application is being returned to the Office of Initial Patent Examination for correction of the filing date to **February 27, 2003**.

Any inquiries related to this decision 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

COPY MAILED

MAR 2 2 2007

OFFICE OF PETITIONS

GILBRETH & ASSOCIATES, P.C.
P.O. BOX 2428
BELLAIRE, TX 77402-2428

In re Application of Richard L. Miller Application No. 10/376,925 Filed: February 27, 2003 Attorney Docket No. 25190/05	: : : : :	ON PETITION

This is a decision on the petition, filed November 29, 2006, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for a failure to reply in a timely manner to an Office action mailed March 18, 2005. A Notice of Abandonment was mailed on January 30, 2006. On November 29, 2006, the present petition was filed.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $750; and (3) the requisite statement of unintentional delay.

The application is being referred to Technology Center AU 3653 for consideration of the amendment filed November 29, 2006.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

April 28, 2009

Steven M. Jensen
Edwards Angell Palmer & Dodge LLP
P. O. Box 55874
Boston, MA 02205

Patent No.: 7,479,979 B2
Application No.: 10/376,927
Inventor(s): Noritoshi Kakou, et al.
Issued: January 20, 2009
Title: **OMNIDIRECTIONAL MONITORING CONTROL SYSTEM, OMNIDIRECTIONAL MONITORING CONTROL METHOD, OMNIDIRECTIONAL MONITORING CONTROL PROGRAM, AND COMPUTER READABLE RECORDING MEDIUM**

Re: Request for Certificate of Correction

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

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

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

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

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

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

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

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-0025 ATTN: Office of Petitions

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

Virginia Tolbert
For Mary Diggs, Supervisor
Decisions & Certificate of Correction Branch
(703) 756-1591

vt

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

COPY MAILED

JUN 2 2 2009

OFFICE OF PETITIONS

EDWARDS ANGELL PALMER & DODGE LLP
P.O. BOX 55874
BOSTON, MA 02205

In re Patent No. 7,479,979	:	
Issue Date: January 20, 2009	:	
Application No. 10/376,927	:	ON PETITION
Filed: February 27, 2003	:	
Attorney Docket No. 58647 (70840)	:	

This is a decision on the petition filed May 12, 2009, under 37 CFR 3.81(b)[1] to add the assignee's name on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **granted.**

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3210. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

This application is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Irvin Dingle
Petitions Examiner
Office of Petitions

[1] See Official Gazette of June 22, 2004

Docket No.: 58647(70840)
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Letters Patent of:
Kakou et al.

Patent No.: 7,479,979

Issued: January 20, 2009

For: OMNIDIRECTIONAL MONITORING CONTROL SYSTEM, OMNIDIRECTIONAL MONITORING CONTROL METHOD, OMNIDIRECTIONAL MONITORING CONTROL PROGRAM, AND COMPUTER READABLE RECORDING MEDIUM

REQUEST TO CORRECT ASSIGNEE
PURSUANT TO 37 CFR 3.81(b)

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

Dear Sir/Madam:

In response to the Office Communication dated April 28, 2009, the following request to correct the Assignee is made under 37 CFR 3.81(b).

A. The processing fee of $130 was already submitted with the Request for Certificate of Correction filed on April 24, 2009.

B. Failure to include the correct assignee name on the PTOL-85B was inadvertent.

C. Copies of the Notices of Recordation of Assignment are submitted herewith.

It is respectfully requested that the file be forwarded to the Certificate of Correction Branch for issuance of a Certificate of Correction.

Adjustment Date: 06/22/2009 CKHLOK
04/24/2009 INTEFSW 00006887 041105 10376927
01 FC:1811 100.00 CR
02 FC:1808 130.00 CR

06/22/2009 CKHLOK 00000005 041105 7479979

01 FC:1464 130.00 DA
02 FC:1811 100.00 DA

Fee payment in the amount of $230.00 was already made pursuant to the Request for Certificate of Correction filed on April 24, 2009.

The Director is hereby authorized to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Deposit Account No. 04-1105, under Order No. 58647(70840).

Dated: May 12, 2009

Respectfully submitted,

Electronic signature: /Steven M. Jensen/
Steven M. Jensen
Registration No.: 42,693
EDWARDS ANGELL PALMER & DODGE LLP
P.O. Box 55874
Boston, Massachusetts 02205
(617) 517-5531
Attorneys/Agents For Applicant

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

RALPH E. JOCKE
Walker & Jocke
231 SOUTH BROADWAY
MEDINA, OH 44256

Mail Date: 04/21/2010

Applicant	: David Schultz	: DECISION ON REQUEST FOR
Patent Number	: 7660767	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/376,952	: 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 **1548** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

RALPH E. JOCKE
Walker & Jocke
231 SOUTH BROADWAY
MEDINA, OH 44256

Mail Date: 04/21/2010

Applicant	: David Schultz	: DECISION ON REQUEST FOR
Patent Number	: 7644041	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/376,955	: 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 **1660** 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.:020806

DATE : February 8, 2006

TO SPE OF : ART UNIT 2824

SUBJECT : Request for Certificate of Correction on Patent No.: 6,865,130

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.

David Irvine

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

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

☒ **Approved** **All** changes apply.

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

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

Comments:

Approved by Anh Phung, Primary Examiner, AU2824 Anh Phung 2/8/06

2/8/06
RICHARD ELMS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

SPE: Richard Elms **Art Unit** 2824

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

102003

MAILED
OCT 20 2003

OFFICE OF DIRECTOR
GROUP

AKERMAN, SENTERFITT & EIDSON, P.A.
222 Lakeview Avenue, Suite 400
P.O. Box 3188
West Palm Beach, FL 33402-3188

In re Application of	)	DECISION ON PETITION
Tuan Vo-Dinh et al.	)	TO MAKE SPECIAL
Application No.10/376,965	)	
Filed: February 28, 2003	)	
Attorney Docket No. 6321-233	)	

This is a decision on the petition under 37 C.F.R. § 1.102, filed August 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 Manual of Patent Examining Procedure (M.P.E.P.), Section 708.02, Item XI: Inventions for Countering Terrorism.

A grantable petition to make an application special under 37 C.F.R. § 1.102 and in accordance with M.P.E.P. § 708.02, Section XI, for an invention for countering terrorism must be accompanied by a statement explaining how the invention contributes to countering terrorism and a petition fee under 37 C.F.R. § 1.17(h).

The petition was accompanied by a statement by the attorney of record and met the requirements of M.P.E.P. § 708.02, Item XI.

For the above stated reasons, the petition is **GRANTED**.

The application is being forwarded to the examiner for expedited prosecution.

If the examiner can make this application special without prejudice to any possible interfering applications, and he/she should make a rigid search for such, she is authorized to do so for the next action. Should the application be rejected, the application will not be considered special for the subsequent action unless the applicant promptly makes a bona fide effort to place the application in condition for allowance, even if it is necessary to have an interview with the examiner to accomplish this purpose.

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

Should an appeal be taken in this application or should this application becomes involved in an interference, consideration of the appeal and the interference will be expedited by all Patent and Trademark Office officials concerned, contingent likewise upon diligent prosecution by the applicant.

After allowance, this application will be given priority for printing. See M.P.E.P. § 1309.

The petition is granted to the extent indicated.

Hien H. Phan, Special Program Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components
(703) 308-7502

SPE J. Seidleck

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 10/376,969

Paper No.: _____

DATE : 6/22/05

TO SPE OF : ART UNIT 1711

SUBJECT : Request for Certificate of Correction on Patent No.: 6762246

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.

BEST AVAILABLE COPY

Lamonte M. Newsome

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-305-8309

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

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

Comments:

JSS

SPE — Art Unit 1711

PTOL-306 (REV. 7/03) U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MEDTRONIC, INC.
710 MEDTRONIC PARKWAY NE
MINNEAPOLIS MN 55432-9924

COPY MAILED

MAY 01 2008

OFFICE OF PETITIONS

In re Application of
Edward CHINCHOY
Application No. 10/376,981
Filed: February 28, 2003
Attorney Docket No. **P0010805.00**

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 07, 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 03, 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 04, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1540; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-2783.

This application is being referred to Technology Center AU 3762 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

David Bucci
Petitions Examiner
Office of Petitions

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

MEDTRONIC, INC.
710 MEDTRONIC PARKWAY NE
MINNEAPOLIS, MN 55432-9924

Mail Date: 04/20/2010

Applicant	: Edward Chinchoy	: DECISION ON REQUEST FOR
Patent Number	: 7610088	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/376,981	: 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 **663** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DLA PIPER RUDNICK GRAY CARY US, LLP
2000 UNIVERSITY AVENUE
E. PALO ALTO, CA 94303-2248

COPY MAILED

MAR 1 0 2006

OFFICE OF PETITIONS

In re Application of	:	
Tran et al.	:	
Application No. 10/376,989	:	
Filed: February 26, 2003	:	ON PETITION
Title of Invention:	:	
FOLDED CASCODE HIGH VOLTAGE	:	
OPERATIONAL AMPLIFIER WITH	:	
CLASS AB SOURCE FOLLOWER	:	
OUTPUT STAGE	:	

This is a decision on the petition under 37 CFR 1.137(a), and alternatively under 37 CFR 1.137(b), filed January 23, 2006, to revive the above-identified application.

The petition under 37 CFR 1.137(a) is **DISMISSED**.

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

The above-identified application became abandoned for failure to timely and peoperly reply to the Notice of Allowability ("Notice"), mailed June 23, 2005. The Notice set a non-extendable statutory period for reply of three (3) months. No reply having been filed, the application became abandoned September 24, 2005. A Notice of Abandonment was mailed November 21, 2005.

The instant petition

In response to the Notice of Abandonment, Applicant filed the instant petition wherein Applicant provides that replacement drawings were mistakenly omitted in response to the Notice. Applicant thus asserts that the abandonment was unavoidable, or alternatively, unintentional.

Petition under 37 CFR 1.137(a) based upon unavoidable abandonment

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by: (**1**)the required reply (unless previously filed), which may met by the filing of a notice of appeal and the requisite fee; a continuing application; an amendment or request for reconsideration which *prima facie* places the application in condition for allowance, or a first or second submission under 37 CFR 1.129(a) if the application has been pending for at least two years as of June 8, 1995, taking into account any reference made in such application to any earlier filed application under 35 USC 120, 121 and 365(c); (**2**) the petition fee as set forth in 37 CFR 1.17(l); (**3**) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (**4**) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c). The instant petition lacks items (1) and (3).

Petitioner must establish that petitioner treated the patent the same as a reasonable and prudent person would treat his or her most important business.

The general standard applied by the Office requires petitioner to establish that petitioner treated the patent the same as a reasonable and prudent person would treat his or her most important business.[1]35 U.S.C. 41(c)(1) states, "The Commissioner may accept the payment of any maintenance fee ... at any time ... if the delay is shown *to the satisfaction of the Commissioner* to have been unavoidable." (emphasis added).

"In the specialized field of patent law, ... the Commissioner of Patent and Trademarks is primarily responsible for the application and enforcement of the various narrow and technical statutory and regulatory provisions. His interpretation of those provisions is entitled to considerable deference." Rydeen v. Quigg, 748 F.Supp. 900, 904, 16 U.S.P.Q.2d (BNA)1876 (D.D.C. 1990), aff'd without opinion (Rule 36), 937 F.2d 623 (Fed. Cir. 1991) (citing Morganroth v. Quigg, 885 F.2d 843, 848, 12

[1] The Commissioner is responsible for determining the standard for unavoidable delay and for applying that standard.

U.S.P.Q.2d (BNA) 1125 (Fed. Cir. 1989); Ethicon, Inc. v. Quigg, 849 F.2d 1422, 1425, 7 U.S.P.Q.2d (BNA) 1152 (Fed. Cir. 1988) ("an agency' interpretation of a statute it administers is entitled to deference"); see also Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc., 467 U.S. 837, 844, 81 L. Ed. 694, 104 S. Ct. 2778 (1984) ("if the statute is silent or ambiguous with respect to the specific issue, the question for the court is whether the agency's answer is based on a permissible construction of the statute.")).

"The critical phrase 'unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable' has remained unchanged since first enacted in 1861." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (D.C. Cir. 1982). The standard for "unavoidable" delay for reinstating a patent is the same as the unavoidable standard for reviving an application. See Ray v. Lehman, 55 F.3d 606, 608-609, 34 U.S.P.Q.2d (BNA) 1786, 1787 (Fed. Cir. 1995) (citing In re patent No. 4,409,763, 7 U.S.P.Q.2d (BNA) 1798, 1800 (Comm'r Pat. 1990; Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (D.C. Cir. 1982). The court in In re Mattullath, accepted the standard which had been proposed by Commissioner Hall which "requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business." In re Mattullath, 38 App. D.C. 497, 514-515 (1912) (quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)). However, "The question of whether an applicant's delay in prosecuting an application was unavoidable [will] be decided on a case-by-case basis, taking all of the facts and circumstances into account."[2] Nonawareness of the content of, or a misunderstanding of, PTO statutes, PTO rules, the MPEP, or Official Gazette notices, does not constitute unavoidable delay.[3] The statute requires a "showing"

---

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

[3] See Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (Fed. Cir. 1982) (citing Potter v. Dann, 201 U.S.P.Q. (BNA) 574 (D. D.C. 1978) for the proposition that counsel's nonawareness of PTO rules does not constitute "unavoidable" delay)); Vincent v. Mossinghoff, 1985 U.S. Dist. LEXIS 23119, 13, 230 U.S.P.Q. (BNA) 621 (D. D.C. 1985) (Plaintiffs, through their counsel's actions, **or their own**, must be held responsible for having noted the MPEP section and Official Gazette notices expressly stating that the certified mailing procedures outlined in 37 CFR 1.8(a) do not apply to continuation applications.) (Emphasis added).

by petitioner. Therefore, petitioner has the burden of proof. The decision will be based solely on the written, administrative record in existence. It is not enough that the delay was unavoidable; petitioner must prove that the delay was unavoidable. A petition will not be granted if petitioner provides insufficient evidence to "show" that the delay was unavoidable.

Applicant is further advised that the Patent and Trademark Office must rely on the actions or inactions of duly authorized and voluntarily chosen representatives of the applicant, and applicant is bound by the consequences of those actions or inactions. Link v. Wabash, 370 U.S. 626, 633-34 (1962); Huston v. Ladner, 973 F.2d 1564, 1567, 23 USPQ2d 1910, 1913 (Fed. Cir. 1992); see also Haines v. Quigg, 673 F. Supp. 314, 317, 5 USPQ2d 1130, 1132 (D.N. Ind. 1987). Specifically, petitioner's delay caused by the actions or inactions of his voluntarily chosen representative does not constitute unavoidable delay within the meaning of 35 U.S.C. 133 or 37 CFR 1.137(a). Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (D. Ind. 1987); Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (Comm'r Pat. 1891). In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913).

Finally, a "delay (in responding) resulting from the lack of knowledge or improper application of the patent statute, rules of practice, or MPEP, [] does not constitute unavoidable delay." MPEP 711.03(c).

Applicant's Assertion

Applicant asserts that a timely reply was filed via facsimile transmission on January 17, 2002.

Analysis and conclusion

As to item (3), Applicant has not provided an adequate showing of unavoidable delay. It is the conclusion of this Office that

a reasonable person in relation to their most important business would have ensured a complete and proper reply was timely filed.

Petition under 37 CFR 1.137(b) based upon unintentional abandonment

With the instant petition, Applicant has satisfied the requirements of a grantable petition under 37 CFR 1.137(b). The issue fee is filed with the instant petition. Accordingly, the petition is granted.

Petitioner's deposit account has been charged the fees for petitions under 37 CFR 1.137(a) and (b).

This application is being referred to Publishing Division for continued processing in due course.

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

Derek L. Woods
Attorney
Office of Petitions

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

SHANNON V. MCCUE
RENNER KENNER GREIVE BOBAK TAYLOR & WEBER
FIRST NATIONAL TOWER
FOURTH FLOOR
AKRON, OHIO 44308

COPY MAILED

JAN 13 2004

OFFICE OF PETITIONS

In re Application of
Robert Turnbull
Application No. 10/377,000
Filed: March 3, 2003
Attorney Docket No. 02061

NOTICE

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

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

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

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

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

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

Effective December 1, 2003, the Office of Petitions can no longer receive hand-carried correspondence, or facsimile transmissions of correspondence. The centralized location for hand-carried correspondence is the Customer Window located at:

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

The centralized facsimile number is **(703) 872-9306.**

This file is being forwarded to Technology Center AU 3725.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED
NOV 03 2006
OFFICE OF PETITIONS

MERCHANT & GOULD BELLSOUTH CORPORATION
P.O. BOX 2903
MINNEAPOLIS MN 55402

In re Application of
Robert H. Wright et al.
Application No. 10/377,003
Filed: February 28, 2003
Attorney Docket Number:
60027.0450US01/BS02086

ON PETITION

This is a decision on the petition filed October 3, 2006, to withdraw the holding of abandonment under 37 CFR 1.181, in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513. The petition also pleads in the alternative to revive the instant application 37 CFR 1.137(b). [1]

The petition under 37 CFR 1.181 is **DISMISSED**.
The petition under 37 CFR 1.137(b) is **GRANTED**.

The file record discloses that the Office Action mailed November 22, 2005 was mailed to what was believed to be the address of record. However, petitioner contends that it was not received. In support of this contention, petitioner provides copies of the docket record as well as a statement from the Docket Supervisor outlining the procedures for handling mail and declaring that a search of the file and docket records show that the Office Action mailed November 22, 2005 was not received.

---

[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)).

The address of record for the instant application is associated with customer number 39262 per a January 31, 2005 Power of Attorney which was acknowledged by the USPTO on June 16, 2005 as BELLSOUTH CORPORATION P.O. BOX 2903, MINNEAPOLIS MN 55402. A review of the file reveals that the Final Office Action was mailed to BELLSOUTH CORPORATION P.O. BOX 2903, MINNEAPOLIS MN 55402 the address of record on November 22, 2005, but was returned by the US Postal Service on November 28, 2005 as undeliverable. According to USPTO records at this writing the address associated with customer number 39262 has been changed to MERCHANT & GOULD BELLSOUTH CORPORATION P.O. BOX 2903, MINNEAPOLIS MN 55402. There appears to have been some modification to the customer number address but it does not appear that the modification was made prior to the mailing of the Final Office Action on November 22, 2005 and thus the failure to respond to the office action based on a claim of non-receipt is not due to USPTO error but instead appears to be due to the proper address for customer number 39262 not having been properly communicated to the USPTO.

In the absence of petitioner showing that they acted responsibly with respect to providing the USPTO with the proper address for customer number 39262, the showing of record is therefore insufficient to warrant withdrawal of the holding of abandonment.

In response to the Final Office Action, petitioner submits an RCE and amendment as the submission required under 37 CFR 1.114.

With respect to the petition to revive, the petition fee in the amount of $1500.00 has been charged to deposit account no. 13-2725.

All other requirements under 37 CFR 1.137(b) having been met, this matter is being referred to Technology Center 2617 for processing the RCE filed October 3, 2006.

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

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

Paper No. 5

Jean M. Silveri
75 Sidney Street
Cambridge, MA 02139

COPY MAILED

APR 29 2004

OFFICE OF PETITIONS

In re Application of
Curtis et al.
Application No. 10/377,072
Filed: February 27, 2003
Attorney Docket No. MPI03-018OMNIM

GRANT OF PETITION
UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed November 28, 2003, to accept an unintentionally delayed claim for the benefit of priority based on the prior-filed applications set forth in the concurrently filed amendment.

The petition is **granted**.

When an application is filed on or after November 29, 2000, benefit claims under 35 U.S.C. 119(e), 120, 121 and 365(c) must be made during the pendency of the application and within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior application. For the instant application, the above period of time ended on June 27, 2003. One of the priority claims was improper because if failed to state the relationship between the applications. A proper claim has now been submitted after the allowed time period. However, petitioner has submitted a petition under 37 CFR 1.78(a)(3).

37 CFR 1.78(a)(3) states,

If the reference required by 35 U.S.C. 120 and paragraph (a)(2) of this section is presented in a nonprovisional application after the time period provided by paragraph (a)(2)(ii) of this section, the claim under 35 U.S.C. 120, 121, or 365(c) for the benefit of a prior-filed copending nonprovisional application or international application designating the United States of America may be accepted if the reference identifying the prior-filed application by application number or international application number and international filing date was unintentionally delayed. A petition to accept an unintentionally delayed claim under 35 U.S.C. 120, 121, or 365(c) for the benefit of a prior-filed application must be accompanied by:

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

Petitioner has satisfied the above requirements for relief under 37 CFR 1.78(a)(3).

The granting of this petition is not a determination that petitioner is actually entitled to the benefit of the filing date of the prior-filed applications, but is only a determination that the Office will allow petitioner to amend the claim for priority to add the relationship of the applications (i.e. "continuation"). The examiner will, in due course, consider any priority claims and determine the extent to which the application is entitled to an earlier filing date.

A corrected Filing Receipt, which includes all the priority claims, accompanies this decision on petition.

This application is being forwarded to Technology Center Art Unit 1652 for appropriate action on the amendment submitted November 28, 2003, including consideration by the examiner of the claims for priority.

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

Charles Pearson
Director
Office of Petitions

Attached: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED
SEP 15 2006
OFFICE OF PETITIONS

HOFFMANN & BARON, LLP
6900 JERICHO TURNPIKE
SYOSSET, NY 11791

In re Patent No. 6,841,547 :
Issue Date: January 11, 2005 :
Application No. 10/377,088 : NOTICE
Filed: February 28, 2003 :
Patentee(s): David Brown, et. al. :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28, filed May 8, 2006. 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**. Therefore, status as a small entity has been removed and all future fees paid must be paid 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

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

WONG, CABELLO, LUTSCH, RUTHERFORD & BRUCCULERI, L.L.P.
20333 SH 249 6th Floor
HOUSTON, TX 77070

Mail Date: 04/21/2010

Applicant	: Jean-Marc Trinon	: DECISION ON REQUEST FOR
Patent Number	: 7617073	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/377,092	: 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 **1687** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 8

COPY MAILED

JAN 29 2004

OFFICE OF PETITIONS

RICHARD C. HIMELHOCH
311 S. WACKER DRIVE
53RD FLOOR
CHICAGO IL 60606-6622

In re Application of
Matthew Lawler
Application No. 10/377,095
Filed: February 28, 2003
Attorney Docket No. 4619 P 017

: DECISION NOTING JOINDER OF INVENTOR AND PETITION UNDER 37 CFR 1.47(a) DISMISSED AS INVOLVING MOOT ISSUES

Papers filed on January 20, 2004, in reply to "Decision Refusing Status Under 37 CFR 1.47(a)" mailed on December 9, 2003, included, a Declaration signed by the previously nonsigning inventor, Trung Lee, in compliance with 37 CFR 1.63.

In view of the joinder of the inventor, further consideration under 37 CFR 1.47(a) is **dismissed** as involving moot issues; this application does not have any rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this office for any further consideration under 37 CFR 1.47(a).

This application will be forwarded to the Office of Initial Patent Examination for further processing.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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

RICHARD C. HIMELHOCH
311 S. WACKER DRIVE
53RD FLOOR
CHICAGO IL 60606-6622

COPY MAILED

DEC 0 9 2003

OFFICE OF PETITIONS

In re Application of
Matthew Lawler et al.
Application No. 10/377,095
Filed: February 28, 2003
Attorney Docket No. 4619 P 017

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the petition filed under 37 CFR 1.47(a) on November 18, 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 February 28, 2003, naming Matthew Lawler, Paul Nizzere, Dennis Leonard, Christopher Chudek, John B. Salzman, Jacqueline M. Vossler, Prathip Govindan, Arpita Gillis, Dung Cao, Hiep Nguyen, Thai Ha, Trung Le and Ngoc Do as joint inventors but without an executed declaration.

Accordingly, a Notice to File Missing Parts was mailed April 18, 2003. In response thereof, this petition, filed November 18, 2003 and a request for a five month extension of time, signed by inventors Matthew Lawler, Paul Nizzere, Dennis Leonard, Christopher Chudek, John B. Salzman, Jacqueline M. Vossler, Prathip Govindan, Arpita Gillis, Dung Cao, Hiep Nguyen and Ngoc Do only.

Petitioners state that a Mrs. Bui, human resource director for Paragon-Vietnam (inventor Trung Le's former employer), attempted to obtain inventor Trung Le's signature but that she has been unable to locate inventor Trung Le.

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

(1) proof that the non-signing inventor cannot be reached or located, notwithstanding diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);
(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;
(3) the petition fee;
(4) a surcharge of $130 or $65 (small entity) if the petition and/or declaration is not filed at the time of filing the application, and
(5) a statement of the last known address of the non-signing inventor.

The petition lacks item (1). In regard to item (1), the showing of record is insufficient to

show that diligent efforts were made to contact the non-signing inventor. Petitioners have provided the last known address of inventor Trung Le but not details as to the efforts made by Ms. Bui and/or others to locate inventor Trung Le and the efforts made to acquire inventor Trung Le's signature.

If Ms. Bui, the person identified with first hand knowledge of attempts made to acquire Trung Le's signature, sent correspondence to Mr. Le at the last known address, a statement from Ms. Bui and copies of any cover letters mailed should be included in any renewed petition.

If the claim is that Mr. Le refuses to sign the declaration, please be reminded that Mr. Le must have the benefit of viewing the complete application and not just the declaration. As a copy of the application papers (specification, including claims, drawings, if any, and the declaration) must be sent to the non-signing inventor, petitioners should explain what papers were actually sent to the non-signing inventor.

In the event that the non-signing inventor refuses to sign the declaration, petitioners must present proof thereof. If there is a written refusal, a copy of the written refusal should be submitted 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.

Further 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) 872-9306

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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

MILLENNIUM PHARMACEUTICALS, INC.
75 Sidney Street
Cambridge MA 02139

COPY MAILED
AUG 17 2004
OFFICE OF PETITIONS

In re Application of :
Meyers et al :
Application No. 10/377,097 : DECISION ON PETITION
Filed: February 28, 2003 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. MPI03-035OMNIM :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed November 28, 2003, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

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

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

The instant pending application was filed on February 28, 2003, and was pending at the time of filing of the instant petition. A reference to the prior-filed nonprovisional applications has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(2)(iii).

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional applications is submitted after

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

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

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

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

This application is being referred to to Technology Center Art Unit 1642 for appropriate action on the amendment filed November 28, 2003, 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.

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

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 5

Faegre & Benson LLP
2200 Wells Fargo Center
90 South Seventh Street
Minneapolis MN 55402-3901

COPY MAILED

JUL 14 2003

OFFICE OF PETITIONS

In re Application of Anderson et al. Application No. 10/377,101 Filed: March 3, 2003 Attorney Docket No. 58286-281792	: : : : :	DECISION DISMISSING PETITION

This is a decision on the petition filed May 12, 2003, requesting that the above-identified application be accorded a filing date of March 3, 2003, with Figures 63-67 as part of the original disclosure.

On March 3, 2003, applicants filed the above-identified application. On April 1, 2003, the Office mailed a "Notice to File Missing Parts of Nonprovisional Application" (Notice), requiring applicants to submit the statutory basic filing fee, an executed oath or declaration, and a surcharge for their late filing. Additionally, the Notice stated that the application had been accorded a filing date of March 3, 2003; however, it appeared that Figures 63-67 described in the specification appeared to have been omitted.

In response, on May 12, 2003, applicants filed, inter alia, the present petition, the petition fee, and copies of 3 sheets of drawings consisting of Figures 63-67.

Upon review of the record, the 3 sheets of drawings, consisting of Figures 63-67 have not been located in the official file. It is noted that the specification specifically incorporated by reference the disclosure of Nonprovisional Application No. 10/306,179, filed November 27, 2002. Section 201.06(c) of the Manual of Patent Examining Procedure states that:

> . . . an applicant may incorporate by reference the prior application by including, in the application-as-filed, a statement that such specifically enumerated prior application or applications are "hereby incorporated herein by reference." The statement may appear in the specification or in the application transmittal letter. The inclusion of this incorporation by reference of the prior

> application(s) will permit an applicant to amend the continuing application to include any subject matter in such prior application(s), without the need for a petition. (emphasis supplied).

Obviously, in view of the incorporation by reference of Nonprovisional Application No. 10/306,179, the drawings of Figures 63-67 are not new matter if they were a part of the disclosure of Application No. 10/306,179. If applicants desire that Figures 63-67 be added to the application, an amendment should be filed prior to the first action on the merits, which will be considered by the primary examiner.

Accordingly, the Notice mailed on April 1, 2003, was correct in stating that Figures 63-67 described in the specification appeared to have been omitted. Therefore, the requirement for the omitted figures was proper and will not be withdrawn.

Accordingly, the petition is dismissed.

The $130.00 petition fee will charged to Deposit Account No. 06-0029, because the petition was not necessitated by any error on the part of the United States Patent and Trademark Office.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of March 3, 2003, using the application papers filed on that date.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

OIPE JC1
SEP 0 2 2003
PATENT & TRADEMARK OFFICE

Paper No. 5

Faegre & Benson LLP
2200 Wells Fargo Center
90 South Seventh Street
Minneapolis MN 55402-3901

COPY MAILED
JUL 1 4 2003
OFFICE OF PETITIONS

In re Application of Anderson et al. Application No. 10/377,101 Filed: March 3, 2003 Attorney Docket No. 58286-281792	DECISION DISMISSING PETITION

RECEIVED
SEP 0 5 2003
TECHNOLOGY CENTER R3700

This is a decision on the petition filed May 12, 2003, requesting that the above-identified application be accorded a filing date of March 3, 2003, with Figures 63-67 as part of the original disclosure.

On March 3, 2003, applicants filed the above-identified application. On April 1, 2003, the Office mailed a "Notice to File Missing Parts of Nonprovisional Application" (Notice), requiring applicants to submit the statutory basic filing fee, an executed oath or declaration, and a surcharge for their late filing. Additionally, the Notice stated that the application had been accorded a filing date of March 3, 2003; however, it appeared that Figures 63-67 described in the specification appeared to have been omitted.

In response, on May 12, 2003, applicants filed, inter alia, the present petition, the petition fee, and copies of 3 sheets of drawings consisting of Figures 63-67.

Upon review of the record, the 3 sheets of drawings, consisting of Figures 63-67 have not been located in the official file. It is noted that the specification specifically incorporated by reference the disclosure of Nonprovisional Application No. 10/306,179, filed November 27, 2002. Section 201.06(c) of the Manual of Patent Examining Procedure states that:

> . . . an applicant may incorporate by reference the prior application by including, in the application-as-filed, a statement that such specifically enumerated prior application or applications are "hereby incorporated herein by reference." The statement may appear in the specification or in the application transmittal letter. The inclusion of this incorporation by reference of the prior

> application(s) will permit an applicant to amend the continuing application to include any subject matter in such prior application(s), <u>without the need for a petition</u>. (emphasis supplied).

Obviously, in view of the incorporation by reference of Nonprovisional Application No. 10/306,179, the drawings of Figures 63-67 are not new matter if they were a part of the disclosure of Application No. 10/306,179. If applicants desire that Figures 63-67 be added to the application, an amendment should be filed prior to the first action on the merits, which will be considered by the primary examiner.

Accordingly, the Notice mailed on April 1, 2003, was correct in stating that Figures 63-67 described in the specification appeared to have been omitted. Therefore, the requirement for the omitted figures was proper and will not be withdrawn.

Accordingly, the petition is <u>dismissed</u>.

The $130.00 petition fee will charged to Deposit Account No. 06-0029, because the petition was not necessitated by any error on the part of the United States Patent and Trademark Office.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of March 3, 2003, using the application papers filed on that date.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAR 18 2004

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

In re Application of	:
Zhengxing Quet al	:
Serial No.: 10/377,109	: WITHDRAWAL OF ATTORNEY
Filed: March 3, 2003	:
Attorney Docket No.: 018733-1159	:

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

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

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

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

The request to withdraw is **DISMISSED**.

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

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

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

MAR 18 2004

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

In re Application of	:
Zhengxing Quet al	:
Serial No.: 10/377,109	: WITHDRAWAL OF ATTORNEY
Filed: March 3, 2003	:
Attorney Docket No.: 018733-1159	:

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

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

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

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

The request to withdraw is **DISMISSED**.

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

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

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

SHOEMAKER AND MATTARE, LTD.
10 POST OFFICE ROAD - SUITE 110
SILVER SPRING, MD 20910

COPY MAILED

NOV 16 2004

OFFICE OF PETITIONS

In re Application of	:
Walter Herbert Henson et al	:
Application No. 10/377,112	:DECISION DISMISSING PETITION
Filed: March 3, 2003	:
Attorney Docket No. 5277	:

This is a decision on the petition under 37 CFR § 1.78(a)(3), filed November 3, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of a prior-filed nonprovisional application (Application No. 09/493,191), as set forth in the concurrently filed amendment.

The petition is **DISMISSED AS MOOT**.

Along with the instant petition under 37 CFR § 1.78(a)(3), petitioner has submitted an amendment to the first sentence of the specification following the title to include a reference to the above-noted, prior-filed application. While a reference to the above-noted, prior-filed application was not included in an ADS or in the first sentence of the specification following the title as required by 37 CFR 1.78(a)(2)(iii) and submitted within the time period specified in 37 CFR 1.78(a)(2)(ii), reference nevertheless was made in the transmittal letter filed with the above-identified application.

The current procedure where a claim for priority under 37 CFR §§ 1.78(a)(3) is not included in the first sentence of the specification or in an ADS but does appear either in the oath or declaration or a transmittal letter filed with the application and the Office notes the claim for priority, no petition will be required to accept a late claim for priority. This is because the application would have been scheduled for publication on the basis of the information concerning the claim submitted elsewhere in the application within the time period set forth in 37 CFR § 1.78(a)(2)(ii). However, on the other hand, if the USPTO does not note the claim for priority to the prior-filed application(s) set forth in the oath or declaration or transmittal letter submitted with the application, a petition will be required to accept a late claim for priority under 37 CFR § 1.78(a)(3) . In the instant case, the Office noted the claim for priority of the prior-filed application in the transmittal letter filed with the application, as shown by its inclusion on the filing receipt.

In view of the above, no petition fee has been assessed to petitioner's deposit account.

Any questions concerning this decision on petition may be directed to the at (571) 272-3218. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center AU 2841 for processing the RCE and amendment filed November 3, 2004.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SHOEMAKER AND MATTARE, LTD.
10 POST OFFICE ROAD - SUITE 110
SILVER SPRING, MD 20910

COPY MAILED

NOV 05 2004

OFFICE OF PETITIONS

In re Application of
Walter Herbert Henson et al
Application No. 10/377,112
Filed: March 3, 2003
Attorney Docket No. 5277

DECISION GRANTING PETITION
UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition, filed November 4, 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 9, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter will be retained in the Office of Petitions for appropriate action on the concurrently filed petition under 37 CFR 1.78(a)(3) to accept an unintentionally delayed priority claim to Application No. 09/493,191, filed January 28, 2000 and for appropriate action on the "Amendment."

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

---

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

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

MAR 18 2004

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

In re Application of	:
Serengulam Govindam et al	:
Serial No.: 10/377,121	: WITHDRAWAL OF ATTORNEY
Filed: March 3, 2003	:
Attorney Docket No.: 018733-1163	:

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

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

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

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

The request to withdraw is **DISMISSED**.

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

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

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

MAR 18 2004

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

In re Application of	:
Serengulam Govindam et al	:
Serial No.: 10/377,121	: WITHDRAWAL OF ATTORNEY
Filed: March 3, 2003	:
Attorney Docket No.: 018733-1163	:

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

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

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

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

The request to withdraw is **DISMISSED**.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 7

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

COPY MAILED

NOV 21 2003

OFFICE OF PETITIONS

In re Application of
Hansen, Leung, Qu & Goldenberg
Application No. 10/377,122
Filed: March 3, 2003
Attorney Docket No. 018733-1161
For: INTERNALIZING ANTI-CD-74
ANTIBODIES AND METHODS OF USE

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

This is in response to the petition under 37 CFR 1.47(a), filed October 14, 2003.

The petition is granted.

Petitioners have established that the non-signing inventor, Shui-on Leung, cannot be located. Specifically, the declaration of Rebecca Kinner establishes that despite contacting former employers, placing calls to the inventor's last known cell phone number, attempting to reach the inventor at his last known address, and searching the Internet, the inventor could not be located. Petitioners' diligent efforts were fruitless. Petitioners have submitted a declaration in compliance with 37 CFR 1.63 and 1.64. Pursuant to petitioners' authorization, deposit account no. 19-0741 will be charged a $130 fee for filing the instant petition.

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

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

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

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SHUI-ON LEUNG
10C, UNIVERSITY RESIDENCE NO. 16
THE CHINESE UNIVERSITY OF HONG KONG
SATIN, N.T.
HONG KONG 07059

COPY MAILED

NOV 21 2003

OFFICE OF PETITIONS

In re Application of
Hansen, Leung, Qu & Goldenberg
Application No. 10/377,122
Filed: March 3, 2003
Attorney Docket No. 018733-1161
For: INTERNALIZING ANTI-CD-74
ANTIBODIES AND METHODS OF USE

LETTER

Dear Dr. Leung:

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

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

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

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

ATTORNEY OF RECORD: FOLEY AND LARDNER
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

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

MAR 23 2007

FAEGRE & BENSON LLP
PATENT DOCKETING
2200 WELLS FARGO CENTER
90 SOUTH SEVENTH STREET
MINNEAPOLIS MN 55402-3901

In re Application of	:
Hans J. Hansen et al	:
Serial No.: 10/377,122	: PETITION TO MAKE SPECIAL
Filed: March 3, 2003	:
Attorney Docket No.: 329656	:

This is in response to the petition filed February 28, 2007, 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
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

AUG 18 2004

In re Application of
Jorge Maercovich *et al*
Application No. 10/377,124
Filed: February 28, 2003
Attorney Docket No. USP2018A-SLF

: DECISION ON PETITION

This is a decision on the petition to make special filed on March 29, 2004. The $130.00 petition fee has been received.

The petition is dismissed.

The petition to make special is based upon the existence of an prospective manufacture. MPEP § 708.02(I) establishes the filing requirements for a petition to make special based upon prospective manufacture, which require that petitioners allege the following:

> (A) The possession by the prospective manufacturer of sufficient presently available capital (stating approximately the amount) and facilities (stating briefly the nature thereof)to manufacture the invention in quantity or that sufficient capital and facilities will be made available if a patent is granted;
> If the prospective manufacturer is an individual, there must be a corroborating statement from some responsible party,as for example,an officer of a bank, showing that said individual has the required available capital to manufacture;
> (B) That the prospective manufacturer will not manufacture, or will not increase present manufacture,unless certain that the patent will be granted;
> (C) That the prospective manufacturer obligates himself, herself or itself, to manufacture the invention, in the United States or its possessions, in quantity immediately upon the allowance of claims or issuance of a patent which will protect the investment of capital and facilities; and
> (D) That the applicant or assignee 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, MPEP § 708.02(I) requires that petitioners 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.

A review of the petition shows that items (A), (C) and (D) have not been satisfied, and that there is no indication in the record that petitioners have provided reference copies of prior art known to them that they deem to be most closely related to the claimed subject matter, if such reference copies are not already of record.

Notwithstanding that the record shows that an Office action on the merits was mailed on June 23, 2004, petitioners may file a renewed petition, without additional fee, addressing the deficiencies in the instant petition. Any renewed petition must be filed within two months of the date of this decision. See 37 CFR 1.181(f).

The application remains pending in Technology Center 3700.

PETITION DISMISSED.

Stephen Marcus, Special Program Examiner,
Technology Center 3700

Raymond Y. Chan
108 N. Ynez Ave.
Suite 128
Monterey Park, CA 91754

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Mailed: 7/18/05

Paper Number _____

In re application of
Bitensky et al.
Serial No. 10/377,178
Filed: March 1, 2003
For: MICROVASCULAR NETWORK DEVICE

DECISION ON PETITION

This is a response to the PETITION TO WITHDRAW HOLDING OF ABANDONMENT: PROPER REPLY TO OUTSTANDING PATENT OFFICE REQUIREMENT WAS MAILED AND RETURN POSTCARD RECEIVED filed May 2, 2005. The petition requests that the abandonment, as set forth in the Notice of Abandonment of March 22, 2005, for failure to timely file a proper reply to the Office letter of August 19, 2004, be withdrawn since the applicants did timely file a response thereto on December 20, 2004. (A copy of the response filed December 20, 2004 is attached to the instant request.)

DECISION

The instant request has been accepted as a timely petition to withdraw the holding of abandonment under the provisions of 37 CFR 1.181(no fee) - no abandonment-in-fact. A review of the evidence presented reveals that the copy of the post card submitted contains no date stamp establishing a filing date of December 20, 2004. Further, the certificate of mailing dated December 20, 2004 is not sufficient to establish filing on December 20, 2004. Where a certificate of mailing under 37 CFR 1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 CFR 1.8(b) and MPEP § 512. As stated in 37 CFR 1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). See MPEP 711.03(c). No statement as to the previous timely mailing or evidence of mailing is present.

A review of the USPTO financial records indicates that the fee of $1020.00 was never credited to the instant application. A further review of the each of the originally filed papers indicates that applicant's response with a certificate of mailing dated December 20, 2004 contained incorrect Serial No. 10/337,178 thereon but the response contained thereon the correct inventors, title, attorney docket number, art unit, examiner and filing date. Note: the fee of $1020.00 was credited to Serial No. 10/337,178 as listed on the originally filed papers.

Therefore upon consideration of the entirety of the evidence presented it is considered that although applicant's response with a certificate of mailing dated December 20, 2004 was intended to be filed in serial number 10/377,178 rather than the incorrect serial number of 10/337,178 listed on the response there is insufficient evidence to establish that the filing date was December 20, 2004, thus, the application remains abandoned. The application shall be forwarded to the technical support staff for redirecting the fee of $1020.00 from application 10/337,178 to 10/377,178.

The Petition is **DISMISSED**.

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Paul D. Greeley, Esq.
Ohlandt, Greeley, Ruggiero & Perle, L.L.P.
10th Floor
One Landmark Square
Stamford CT 06901-2682

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Mailed: 2-27-06

In re application of	:	
Bitensky et al.	:	DECISION ON
Serial No. 10/377,178	:	PETITION
Filed: March 1, 2003	:	
For: MICROVASCULAR NETWORK DEVICE	:	

This is a response to the REQUEST FOR RECONSIDERATION OF A PETITION FOR WITHDRAWAL OF ABANDONMENT UNDER 37 CFR 1.181(a), filed August 22, 2005. The response asks that the abandonment, as set forth in the Notice of Abandonment of March 22, 2005, be withdrawn since the applicant did timely file a response on December 20, 2004.

DECISION

The instant request has been accepted as a petition to withdraw the holding of abandonment under the provisions of 37 CFR 1.181 (no fee) - no abandonment-in-fact. A review of the evidence presented reveals that applicant's reply was filed on December 20, 2004 as evidenced by the copy of the USPTO date stamped return receipt postcard indicating receipt of the reply at the USPTO on December 23, 2004. The serial number on the date stamped post card is incorrect, but the filing date and attorney docket number are correct. MPEP 502 states "A minor error in the identification of the application can be corrected by the Office provided the correct identification can be quickly discovered. Examples of minor errors are transposed numbers, typographical errors, and listing the parent application number. Accordingly, any holding of abandonment for failure to timely file a proper reply to the Office letter mailed August 19, 2004 is hereby vacated, and the application is returned to pending status.

The application shall be forwarded to the technical support staff for processing the fees associated with the paper filed December 20, 2004 and then to the examiner for processing and consideration of the papers filed December 20, 2004.

The Petition is **GRANTED**.

Jacqueline M. Stone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Paul D. Greeley, Esq.
Ohlandt, Greeley, Ruggiero & Perle, L.L.P.
10th Floor
One Landmark Square
Stamford CT 06901-2682

caf

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

FLIESLER MEYER, LLP
FOUR EMBARCADERO CENTER
SUITE 400
SAN FRANCISCO CA 94111

COPY MAILED

MAY 04 2005

OFFICE OF PETITIONS

In re Application
Dimitry Goder
Application No. 10/377,182
Filed: February 28, 2003
Attorney Docket No. SIPEX-02043US0

: DECISION ON APPLICATION
: FOR PATENT TERM ADJUSTMENT

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(b)...," filed October 4, 2004. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from seventeen (17) days to forty-five (45) 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 forty-five **(45)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On June 29, 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 seventeen days. On October 4, 2004, applicants timely[1] submitted an application for patent term adjustment (with required fee), asserting that the correct number of days of PTA at the time of the mailing of the Notice of Allowance is forty-five (45) days. Applicants dispute the reduction of twenty-eight (28) days attributed to applicant for failing to respond within three months to the Notice to File Missing Parts of Application mailed April 28, 2003.

This application is not subject to a terminal disclaimer.

The Office initially determined a patent term adjustment of seventeen (17) days based on an adjustment for PTO delay of sixty-two (62) days pursuant to 35 U.S.C.

[1] PALM records indicate that the Issue Fee was received in the Office on October 4, 2004.

154(b)(1)(A)(I) and 37 C.F.R. § 1.703(a)(1) reduced by applicants' delays totaling forty-five days pursuant to 35 U.S.C. 154(b)(2)(C)(ii) and 37 C.F.R. § 1.704(b). The reduction of twenty-eight (28) days is at issue.

The reduction of 28 days has been found to be incorrect. A review of the application file reveals that, as stated by applicants, their response to the Notice to File Missing Parts of Application mailed April 28, 2003, is of record in the application with a date of receipt by the Office of August 14, 2003. Furthermore, the response included a complete reply to the Notice. Thus, the Office should not have entered the date that the instant application was complete as September 11, 2003 or assessed applicants a delay of forty-five (45) days. The response however was not filed within the three-month period under 37 CFR 1.704(b), the response was received seventeen days over the three-month period for reply and accordingly, applicant's delay should have been assessed as seventeen (17) days.

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

In view thereof, the patent should have issued with a revised Patent Term Adjustment of forty-five (45) days.

The Office will refer the matter to the Office of Patent Publication so that a patent can be issued.

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

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
Alexandria, VA 22313-1450
www.uspto.gov

COPY MAILED

JAN 0 6 2006

OFFICE OF PETITIONS

FLIESLER MEYER, LLP
FOUR EMBARCADERO CENTER
SUITE 400
SAN FRANCISCO CA 94111

In re Patent 6,922,041
Issued: July 26, 2005
Application No. 10/377,182
Filed: February 28, 2003
Attorney Docket No. SIPEX-02043US0

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

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT," filed September 26, 2005. Patentees request that the determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from ninety-two (92) days to one hundred eighty-eight (188) days.

The petition is **GRANTED**.

The patent term adjustment indicated on the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of one hundred eighty-eight **(188)** days.

On July 26, 2005, the above-identified application matured into U.S. Patent No. 6,922,041. The instant application for patent term adjustment, filed September 26, 2005 was timely filed within two months of the patent grant. The Patent issued with a revised Patent Term Adjustment of 92 days. Patentees state that the determination of patent term adjustment should not have been reduced by 96 days for the submission of a "Miscellaneous Incoming Paper" after the Notice of Allowance, as the reduction in question, after the mailing of the Notice of Allowance was an Application for Patent Term Adjustment, filed October 4, 2004.

Patentees' argument is well-taken. The submission of an application for patent term adjustment under § 1.705(b) (with or without request under § 1.705(c) for reinstatement of reduced patent term adjustment) will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraph (c)(10) of this section. *See 37 CFR 1.704(e).*

A review of the application record reveals that the reduction of 96 days was based on the filing after allowance of an Application for Patent Term Adjustment, filed October 4, 2004. Thus, it is concluded that the patent term adjustment should not have been reduced by 96 days.

In view thereof, the patent term adjustment indicated on the patent should have been one hundred eighty-eight **(188)** days.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. See 35 U.S.C. § 254 and 37 CFR § 1.322. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by one hundred eighty-eight (188) days.

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

Nancy Johnson for

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

Enclosure: Copy of DRAFT Certificate of Correction

NOV 2 8 2003
PATENT & TRADEMARK OFFICE
JC66

PET DEC

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	:	Liu, Heng
Application No.	:	10/377,186
Filed	:	02/28/2003
Docket No.	:	LIU1.PAU.01

Applicant	:	Liu, Heng
Application No.	:	10/438,108
Filed	:	05/13/2003
Docket No.	:	LIU1.PAU.02

Applicant	:	Liu, Heng
Application No.	:	10/621,049
Filed	:	07/15/2003
Docket No.	:	LIU1.PAU.03

Approved 8/23/05
for
Jacqueline M. Stone, Director
Technology Center 1700

REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT OF RECORD AND CHANGE OF CORRESPONDANCE ADDRESS

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

19900 MacArthur Blvd., Ste. 1150.
Irvine, CA 92612
November 21, 2003

Commissioner:

The attorneys listed as follows, for themselves and a l other members of the firm of MYERS, DAWES, ANDRAS & SHERMAN, request they be withdrawn as attorneys of record in the above referenced patent application(s).

Richard L. Myers, Reg. No. 26,490
Daniel L. Dawes, Reg. No. 27,123
Joseph C. Andras, Reg. No. 33,469
Kenneth L. Sherman, Reg. No. 33,783
John W. Eldredge, Reg. No. 37,613
Vic Y. Lin, Reg. No. 43,754
Timothy W. Fitzwilliam , Reg. No. 46,439
David L. Henty, Reg. No. 31,323

The reason for this request is that the Applicant has requested the application file be transferred, and the application file has been transferred, to another law firm. A copy of Applicant's transfer authorization is attached.

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

HOWSON AND HOWSON
ONE SPRING HOUSE CORPORATION CENTER
BOX 457
321 NORRISTOWN ROAD
SPRING HOUSE, PA 19477

COPY MAILED

SEP 0 9 2004

OFFICE OF PETITIONS

In re Application of	:	
Ashburn, Lennie L.	:	
Application No. 10/377,218	:	ON PETITION
Filed: February 28, 2003	:	
Attorney Docket No. PVT1BUSA	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed August 3, 2004, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the restriction requirement mailed October 31, 2003, which set a shortened statutory period for reply of one (1) month. No extensions of time under the provisions of 37 CFR 1.136(a) were timely obtained. Accordingly, the above-identified application became abandoned on December 1, 2003. A Notice of Abandonment was mailed on August 3, 2004.

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 authorization to charge the $2010.00 extension of time fee submitted with the petition on August 3, 2004 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will not be charged to petitioner's deposit account.

This matter is now being forwarded to Technology Center 3700 for further examination on the merits.

Telephone inquiries should be directed to the undersigned at (703) 306-0482. Any telephone inquiries after September 28, 2004 should be directed to the undersigned at (571) 272-3282.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 09/30/2005

TO SPE OF : ART UNIT **2857 PET 1.48**

SUBJECT : Request for Certificate of Correction on Patent No.: 10/377228 6898532

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

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

Thank You For Your Assistance

Angela Green
Certificates of Correction Branch
Tel. No. 703-305-9380 ext. 123

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

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

Comments:

MARC S. HOFF
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

SPE — 2857 **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

COPY MAILED

MAR 1 3 2006

OFFICE OF PETITIONS

LEYDIG VOIT & MAYER, LTD
TWO PRUDENTIAL PLAZA, SUITE 4900
180 NORTH STETSON AVENUE
CHICAGO, IL 60601-6780

In re Application of	:
Ishiguro, et al.	: DECISION ON APPLICATION
Application No. 10/377,234	: FOR PATENT TERM ADJUSTMENT
Filed: February 27, 2003	:
Atty. Dkt. No.: 221460	:

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT INDICATED IN NOTICE OF ALLOWANCE (37 CFR § 1.705)," filed December 21, 2005. This matter is being properly treated under 37 CFR 1.705(b) as an application for patent term adjustment.

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

The correct Patent Term Adjustment ("PTA") at the time of allowance is 121 days. The Office will adjust the PAIR screen to reflect that the PTA determination at the time of mailing of the instant letter reflects an adjustment of 121 days. A copy of the updated PAIR screen showing the correct determination is enclosed.

Applicants argue that the correct PTA at the time of allowance is 160.

A review of the application history reveals that as of the time of allowance, an adjustment of 191 days can be attributed to the Office in accordance with 37 CFR 1.702(a)(1) and 1.703(a)(1).

The adjustment of 191 days is reduced 31 days in accordance with 37 CFR 1.704(b) in connection with the reply submitted June 3, 2005 in response to the non-final Office action mailed February 3, 2005. The reduction began May 4, 2005, the day after the date that is three months after the date that the non-final Office action was mailed, and ended June 3, 2005, the date a reply was filed.

The adjustment of 191 days was errantly reduced 62 days in connection with a copy of an Information Disclosure Statement (IDS) filed August 4, 2005. Applicants have established by way of return postcard that the IDS was in fact received by the USPTO on January 10, 2005.

Accordingly, the adjustment of 191 days is properly reduced an additional 39 days in accordance with 37 CFR 1.704(c)(8). The adjustment began December 3, 2004, the day after the date the initial response to the non-final Office action was filed, and ended January 10, 2005, the date the supplemental response (IDS) was filed.

Thus, at the time of allowance, the application is entitled to an adjustment of 121 days.

The required Patent Term Adjustment application fee of $200.00 has been charged to Deposit Account No. 12-1216 as authorized in the instant application for patent term adjustment.

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of Adjustment PAIR Calculation

Day : Friday
Date: 3/10/2006

PALM INTRANET

Time: 08:48:20

PTA Calculations for Application: 10/377234			
Application Filing Date:	02/27/2003	PTO Delay (PTO):	191
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	93
Post-Issue Petitions:	0	Total PTA (days):	160
PTO Delay Adjustment:	62		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
51	03/10/2006	ADJUSTMENT OF PTA CALCULATION BY PTO	62		
41	10/19/2005	MAIL NOTICE OF ALLOWANCE			
40	10/17/2005	ISSUE REVISION COMPLETED			
39	10/17/2005	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
38	10/17/2005	CASE DOCKETED TO EXAMINER IN GAU			
37	10/17/2005	NOTICE OF ALLOWABILITY			
36	10/17/2005	DATE FORWARDED TO EXAMINER			
35	10/11/2005	AMENDMENT AFTER FINAL REJECTION			
34	08/10/2005	MAIL FINAL REJECTION (PTOL - 326)			
33	08/04/2005	REFERENCE CAPTURE ON IDS			
32	08/04/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		62	28
31	08/08/2005	FINAL REJECTION			
30	06/03/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
29	06/10/2005	DATE FORWARDED TO EXAMINER			
28	06/03/2005	RESPONSE AFTER NON-FINAL ACTION		31	26
27	06/03/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
26	02/03/2005	MAIL NON-FINAL REJECTION			
25	02/01/2005	NON-FINAL REJECTION			
24	12/10/2004	DATE FORWARDED TO EXAMINER			
23	12/02/2004	RESPONSE TO ELECTION / RESTRICTION FILED			
22	12/02/2004	WORKFLOW INCOMING AMENDMENT IFW			
21	11/04/2004	MAIL RESTRICTION REQUIREMENT	191		-1
20	11/01/2004	REQUIREMENT FOR RESTRICTION / ELECTION			

19	10/24/2004	CORRESPONDENCE ADDRESS CHANGE			
18	09/23/2004	CORRESPONDENCE ADDRESS CHANGE			
17	09/09/2003	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
16	02/27/2003	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
15	06/02/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	02/27/2003	PRELIMINARY AMENDMENT			
13	02/27/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
12	07/22/2003	CASE DOCKETED TO EXAMINER IN GAU			
11	06/12/2003	APPLICATION DISPATCHED FROM OIPE			
10	06/12/2003	APPLICATION IS NOW COMPLETE			
8	05/19/2003	ADDITIONAL APPLICATION FILING FEES			
7	05/19/2003	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
6	05/01/2003	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
4	04/21/2003	CLEARED BY L&R (LARS)			
3	04/20/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
2	03/20/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	02/27/2003	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

PET DEC.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAR 18 2004

VP
PAPER NO. ___

In re Application of
Gerard F. Tempest, Jr.
Serial Number: 10/377,241
Filed: February 28, 2003
For: SYSTEM AND METHOD FOR WATER PURIFICATION

PETITION UNDER M.P.E.P.708.02 V and XI

This is in response to the petition filed February 28, 2003, requesting that the above-identified application be granted Special Status under Sections 708.02 V and XI of the MPEP and 37 CFR 1.102(c) (**no fee required**).

The request for Special Status considered under Section 708.02 V is granted because criteria under 37 CFR 1.102(c) has been met.

Accordingly the petition is **GRANTED.**

Marian C. Knode

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

INTELLECTUAL PROPERTY/TECHNOLOGY LAW
P.O. Box 14329
Research Triangle Park, NC 27709

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

Neustel Law Offices, LTD.
2534 South University Drive
Suite 4
Fargo, ND 58103

COPY MAILED

MAY 1 8 2007

OFFICE OF PETITIONS

In re Application of :

Grant E. Fraser :
Application No. 10/377,243 : DECISION ON PETITION
Filed: February 27, 2003 : TO WITHDRAW
Attorney Docket No. FRAS-002 : 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 20, 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 S. Neustel 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 Grant E. Fraser at the address indicated below.

The application became abandoned for failure to timely respond to the Office action mailed August 21, 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: **Grant E. Fraser M.D.**
3739 Doverton Court
Santa Rosa, CA 95404

cc: **Grant E. Fraser, M.D.**
1350 Ranch Club Blvd.
Sarasota, FL 34240-7841

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
10/377,243	02/27/2003	Grant E. Fraser	FRAS-002

CONFIRMATION NO. 1590

OC000000023934154

65215
NEUSTEL LAW OFFICES, LTD.
2534 SOUTH UNIVERSITY DRIVE
SUITE 4
FARGO, ND 58103

Date Mailed: 05/17/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/20/2006.

- 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.

Teri S. Williams

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199

FORMER ATTORNEY/AGENT COPY

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

MERCHANT & GOULD (MICROSOFT)
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

COPY MAILED

MAR 15 2007

OFFICE OF PETITIONS

In re Application of	:	
JONES, Brian et al.	:	
Application No. 10/377,258	:	DECISION GRANTING PETITION
Filed: February 28, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **60001.0216US01/MS300518.1**	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 8, 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 26, 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 Graves at (571) 272-7253.

This application is being referred to Technology Center AU 2623 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Frances Hicks
Frances Hicks
Petitions Examiner
Office of Petitions

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

APR 0 4 2005

Technology Center 2100

FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW CA 94041

In re Application of: WRIGHT et al. Application No. 10/377,265 Filed: FEBRUARY 28, 2003 For: PROTECTION OF DATA ACCESSIBLE BY A MOBILE DEVICE	DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION UNDER M.P.E.P 708.02 (VIII))

This is a decision filed November 22, 2004 of the petition to make special under 37 C.F.R. 1.102(d) and M.P.E.P 708.02 (VIII): ACCELERATED EXAMINATION.

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 4/1/05
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
703-308-0885

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

CHRISTENSEN, O'CONNOR, JOHNSON,
KINDNESS, PLLC
1420 FIFTH AVENUE
SUITE 2800
SEATTLE, WA 98101-2347

COPY MAILED

MAR 28 2007

OFFICE OF PETITIONS

In re Application of :
Don Morris :
Application No. 10/377,267 : ON PETITION
Filed: February 28, 2003 :
Attorney Docket No. LIUI120539 :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed February 7, 2007.

The petition under 37 CFR 1.181(a) to withdraw the holding of abandonment is **granted**.

This application was held abandoned on September 15, 2006, after it was believed that no response was received to the non-final Office action mailed June 14, 2006. The notice allowed a shortened statutory 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 review of the application file reveals that an amendment responsive to the non-final Office action was filed on December 19, 2006, along with a request for an extension of time within the third month. The amendment contained a certificate of mailing dated December 14, 2006. Notwithstanding, a Notice of Abandonment was mailed on January 16, 2007, indicating that a reply to the non-final Office action was not received.

The instant petition maintains that the response to non-final Office action was timely filed. The abandonment is being withdrawn on the basis of the undersigned review of the application file and discovery of amendment filed July 17, 2006, that is responsive to the non-final Office action.

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 3600, GAU 3654 for further processing, including processing of the amendment filed December 19, 2006.

Questions regarding this decision may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HOLLAND & KNIGHT LLP
10 ST. JAMES AVENUE
11TH FLOOR
BOSTON, MA 02116-3889

COPY MAILED

NOV 06 2008

OFFICE OF PETITIONS

In re Application of	:	
John R. Roese, et al.	:	
Application No. 10/377,299	:	DECISION ON PETITION
Filed: February 28, 2003	:	
Attorney Docket No. 106293.00025	:	

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

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, February 22, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on May 23, 2007.

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

The 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.

The petition is **GRANTED**.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1050 extension of time fee submitted with the petition on April 14, 2008 was

subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's credit card.

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

This application is being referred to Technology Center AU 2616 for appropriate action by the Examiner in the normal course of business on the reply received April 14, 2008.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JJGJR.: 10-07

Paper No: __

KEATS A. QUINALTY
WOMBLE CARLYLE
SANDRIDGE & RICE, PLLC
P.O. BOX 7037
ATLANTA GA 30357-0037

COPY MAILED
OCT 09 2007
OFFICE OF PETITIONS

In re Application of
Hempking
Application No. 10/377,306
Filing Date: 28 February, 2003
Attorney Docket No.: A202 1480

DECISION

This is a decision on the petition filed on 21 July, 2006, alleging unintentional delay under 37 C.F.R. §1.137(b).

The Office regrets the delay in addressing this matter, however, the instant petition was presented to the attorneys in the Office of Petitions only at this writing.[1]

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

BACKGROUND

The record reflects that:

[1] NOTE: Monitoring of the status of applications on PAIR can inform one's management of application responses and provide an indication when mailings of Office actions should be expected. Status Inquiries filed at three (3) or four (4) month intervals provide a demonstration of diligence and attention in supporting a petition seeking relief under 37 C.F.R. §1.181.

- Petitioner failed to reply timely and properly to the Notice of Allowance/Allowability and Fees Due mailed on 10 April, 2006, with reply due under a non-extendable deadline on or before 10 July, 2006;
- the instant application went abandoned by operation of law after midnight 10 July, 2006;
- it does not appear that the Office mailed a Notice of Abandonment before the instant petition was filed;
- on 21 July, 2006, Petitioner filed the instant petition (with fee), reply in the form of the fees due, and made the statement of unintentional delay;
- the Office mailed the Notice of Abandonment on 15 August, 2006.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

---

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

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

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

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

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

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

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

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

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

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

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,[8] and so cannot satisfy the test for diligence and due care.

---

(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]

[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] The test of diligence in the prosecution of an application before the Commissioner is, in the context of ordinary human affairs, the test is such care as is generally used and observed by prudent and careful persons in relation to their most important business. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r. Pat. 1913).

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[9]))

As to the Allegation
of Unintentional Delay

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

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

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.

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[10]) 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] 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.

[10] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing.The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation,or understanding in relation to which there is disagreement or doubt.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:____

DATE : 11/14/07

TO SPE OF : ART UNIT 2136

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/377346 Patent No: 7263185B2

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: _____

NASSER MOAZZAMI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

SPE **Art Unit** 2136

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PAUL E. FRANZ
JONES DAY
NORTH POINT
901 LAKESIDE AVENUE
CLEVELAND, OH 44114

COPY MAILED

AUG 0 9 2004

OFFICE OF PETITIONS

In re Application of :
Wayne A. Theel :
Application No. 10/377,371 :
Filed: February 28, 2003 :
Attorney Docket No. 783403605003 :

ON PETITION

This is a decision on the petition, filed July 30, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on July 30, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 2824 for further processing of the request for continued examination under 37 CFR 1.114 filed July 30, 2004.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CHOATE, HALL & STEWART
EXCHANGE PLACE
53 STATE STREET
BOSTON, MA 02109

COPY MAILED

APR 27 2005

OFFICE OF PETITIONS

In re Application of	:	
Navtej Singh Saluja, et al.	:	
Application No. 10/377,393	:	ON PETITION
Filed: February 28, 2003	:	
Attorney Docket No. 2000560-0034	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 24, 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 5, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 6, 2004.

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

The application matter is being referred to Technology Center 3700, Art Unit 3742 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

In re Patent No. 6935345
Issue Date: August 30,2005
Application No. 10377417
Filed: February 28,2003
Attorney Docket No. 0301.1C1

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

This is a decision on the electronic petition, filed January 19,2010 ,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 19,2010 . 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.

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)
6,935,345	2005-08-30	10377417	2003-02-28	7583/003

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	/James P. Martin/	Date (YYYY-MM-DD)	2010-01-19
Name	James P. Martin	Registration Number	47772

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

caj

Mailed : 5-8-07

In re Application of	:	DECISION ON
Theodore H. Fedynyshyn et al.	:	PETITION
Serial No. 10/377,422	:	
Filed: February 28, 2003		
For: PROTECTING GROUPS FOR LITHOGRAPHIC RESIST COMPOSITIONS		

This is a decision on the PETITION UNDER 37 CFR 1.144 TO WITHDRAW THE RESTRICTION REQUIREMENT mailed April 10, 2006 and clarified November 17, 2006.

On May 14, 2004, the Examiner issued a requirement for restriction including an election of among three species. Applicants elected claims 1-14 and 23 and further elected species where R1 and R2 are hydrogen, and each of the groups R3, R4, and R5 are alkyl. The examiner issued office actions examining all of the pending claims on August 17, 2004, January 25, 2005, April 12, 2005, and August 3, 2005. However, in an office action mailed April 10, 2006, the examiner for the first time withdrew claims 3 and 5-14 as directed to a non-elected species. Applicants traversed this finding, which was repeated in the action mailed November 17, 2006.

On February 20, 2007, the instant petition under 37 CFR 1.144 was filed to formally request the withdrawal of the restriction requirement.

Petitioner argues that the restriction as maintained is improper because it is inconsistent with the original requirement of election of species.

DECISION

Sections 803 of the MPEP states:

803 Restriction — When Proper
Under the statute, the claims of an application may properly be required to be restricted to one of two or more claimed inventions only if they are able to support separate patents and they are either independent (MPEP § 802.01, § 806.06, and § 808.01) or distinct (MPEP § 806.05 - § 806.05(j)).

If the search and examination of all the claims in an application can be made without serious burden, the examiner must examine them on the merits, even though they include claims to independent or distinct inventions.

Petitioner argues that the withdrawal of claims 3 and 5-14 is improper because each of the claims is clearly within Group I and can be read with respect to the elected species of R1 and R2 being hydrogen, and each of the groups R3, R4, and R5 being alkyl. This argument is persuasive. The claims now excluded by the examiner can be read with respect to the elected species and therefore to exclude them would constitute an improper restriction and would be inconsistent with the actions taken previously by the examiner.

Accordingly, the restriction requirement is found to be improper and the petition to withdraw the restriction requirement is **GRANTED**. The application will be forwarded to the examiner for consideration of the non-elected claims 3 and 5-14. The examiner is instructed to promptly issue a new office action which treats claims 3 and 5-14 on the merits.

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

NUTTER MCCLENNEN & FISH LLP
WORLD TRADE CENTER WEST
155 SEAPORT BOULEVARD
BOSTON MA 02210-2604

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

SIEMENS CORPORATION
ATTN: ELSA KELLER, LEGAL ADMINISTRATOR
INTELLECTUAL PROPERTY DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN NJ 08830

COPY MAILED

OCT 16 2008

OFFICE OF PETITIONS

In re Application of	:	
Marcel Manzardo	:	
Application No. 10/377,446	:	DECISION ON PETITION
Filed: February 28, 2003	:	
Attorney Docket No. 2003P00083US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 22, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an RCE and an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Final Rejection mailed August 8, 2007, is accepted as having been unintentionally delayed.

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

This application is being referred to Technology Center AU 2457 for appropriate action by the Examiner in the normal course of business on the reply received July 22, 2008.

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.go

Paper No. 7

DORSEY & WHITNEY, LLP
INTELLECTUAL PROPERTY DEPARTMENT
370 SEVENTEENTH STREET
SUITE 4700
DENVER CO 80202-5647

MAIL

DEC 1 8 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Application No. 10/377,482

Filed: 2/27/03

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney/agent of record filed 9/30/03
A grantable request to withdraw as attorney/agent of record must:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

Petitioner has satisfied the requirements for successfully requesting withdrawal. Accordingly, *the request is* ***granted.*** All future correspondence will be directed to the below address until such a time as a request for change of address is filed. This address has been provided by the withdrawing attorney(s).

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

cc: Morrison & Foerster LLP
1650 Tysons Boulevard
Suite 300
McLean, VA 22102

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: ____

DATE : 9/12/05

TO SPE OF : ART UNIT 1625

SUBJECT : Request for Certificate of Correction on Patent No.: 6867215 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

1625
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

NIKOLAI & MERSEREAU, P.A.
900 SECOND AVENUE SOUTH
SUITE 820
MINNEAPOLIS MN 55402

COPY MAILED
JUL 0 3 2006
OFFICE OF PETITIONS

In re Patent No. 6,808,164 :
Issued: October 26, 2004 :
Application No. 10/377,531 : ON PETITION
Filed: May 22, 2003 :
Patentee: Vincent Chang :

This is a decision on the petition under 37 CFR 1.182, filed March 23, 2006, and supplement thereto on May 18, 2006, requesting issuance of a duplicate Letters Patent for the above-identified patent.

A review of the record discloses that the application matured into U.S. Patent No. 6,808,164 on October 26, 2004. However, petitioner contends that the original patent was never received. Petitioner requests that the Patent Office check the returned correspondence to ensure the original patent is not there.

Since it is U.S. Patent and Trademark Office (USPTO) practice to assure mailing of all papers on the date indicated, there is a strong presumption that papers duly addressed and indicated as mailed, such as the Letters Patent in this application, are timely delivered to the addressee. To overcome this presumption, a verified statement with supporting evidence must be submitted. The Letters Patent was properly addressed and there is no evidence that the patent was returned to the USPTO. Further, except for a statement by counsel, applicant has not provided any supportive evidence that the patent was not received by applicant.

Since the loss of the Letters Patent has not been determined to be the fault of the USPTO, the $400 petition fee pursuant to 37 CFR 1.17(f) is required. It is noted that petitioner implies that the petition fee is $140; however, effective December 8, 2004, the fee for a petition under 37 CFR 1.182 was increased to $400. Therefore, any fee amount paid on or after December 8, 2004, must be paid at the revised amount. As authorized, counsel's deposit account is being charged the $400 petition fee.

The petition is **GRANTED**.

The Publishing Division is directed to issue duplicate Letters Patent.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3204. Any questions concerning issuance of the duplicate Letters Patent should be directed to Krystal Paige at (703) 308-9250, ext. 139.

A copy of this decision is being forwarded to Publishing Division for issuance of a duplicate Letters Patent.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: Krystal Paige, P/OPPD, South Tower, 8th Floor, Room C-32 (FAX 571-270-9937)

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

Craig Miller
642 Via Umbroso
San Clemente CA 91765

COPY MAILED

AUG 30 2006

OFFICE OF PETITIONS

In re Application of :
Liu et al. : DECISION ON PETITION
Application No. 10/377,551 :
Filed: March 3, 2003 :
Title: COMPOSITIONS AND :
METHODS FOR REDUCING OR :
CONTROLLING OXIDANTS AND AGING:

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a), filed May 1, 2006, in 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. 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 above-identified application became abandoned for failure to timely file a proper reply to the final Office action mailed July 12, 2005. This Office action set a shortened statutory period for reply of three (3) months, with extensions of time obtainable under § 1.136(a). On November 14, 2005 (certificate of mailing dated November 8, 2005), applicant replied with an Amendment, made timely by an accompanying petition for a one month extension of time. However, the amendment was determined by the examiner not to place the application in condition for allowance (Advisory Action mailed January 30, 2006). No proper

reply having been received and no further extensions of time obtained, the application became abandoned effective November 13, 2005. A Notice of Abandonment was mailed on March 8, 2006.

Petitioner maintains that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unavoidable. Petitioner asserts the abandonment was unavoidable because the inventor thought he had until 3 months from the mailing date of the Advisory Action to respond.

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 Director 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 instant petition does not satisfy requirements (1) and (3) above.

As to requirement (1), the amendment filed with the petition does not place the application in condition for allowance. See enclosed Advisory Action. The required reply is one that would have been sufficient to avoid abandonment of the application. Thus, for revival, petitioner is required to submit one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance, (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31, or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

As to requirement (3), 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.

37 CFR 1.135(b), the regulation relevant to the abandonment of this application, provides that (A) the admission of, or refusal to admit, any amendment after final rejection, or any related proceedings, will not operate to save the application from abandonment; and (B) the admission of, or refusal to admit, any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment. It is the applicant's responsibility to take the necessary action in an application under a final Office action to provide a complete reply under 37 CFR 1.113.

Moreover, 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 USPQ2d at 1132; 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). For example, as 37 CFR 1.116 and 1.135(b) are manifest that proceedings concerning an amendment after final rejection will not operate to avoid abandonment of the application in the absence of a timely and proper appeal, a delay is not "unavoidable" when the applicant simply permits the maximum extendable statutory period for reply to a final Office action to expire while awaiting a notice of allowance or other action. Finally, 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 USPQ 255, 256 (Comm'r Pat. 1985).

Further, the final rejection mailed July 12, 2005 stated that a reply had to be received no later than January 12, 2006. Specifically, the final rejection stated that: a shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Finally, the Advisory Action reiterated that the period for reply expires 3 months from the mailing date of the final rejection. Applicant was advised that within this time period a proper reply had to be filed.

Having considered the facts and circumstances of the abandonment of this application, it is concluded that petitioner has not met his burdening of establishing unavoidable delay within the meaning of § 1.137(a). It was petitioner's responsibility to know the deadline for taking action and to timely file a proper response to the final Office action. It is well-established that letting the time period for response expire without having filed a proper response to a final Office action is not

unavoidable within the meaning of § 1.137(a). As stated above, the inventor's misunderstanding of the rules regarding deadlines to respond (and his misreading of the Office actions) does not render his failure to timely file a proper response to the final Office action unavoidable.

While the showing of record is not sufficient to establish to the satisfaction of the Director that the delay was unavoidable, petitioner is not precluded from obtaining relief by filing a request for reconsideration pursuant to 37 CFR 1.137(b) on the basis of unintentional delay. A grantable petition under § 1.137(b) must be accompanied by: (1) the reply required to the outstanding Office action or notice, unless previously filed; (2) the petition fee set forth in 37 CFR §1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional; and (4) any terminal disclaimer (and fee as set forth in §1.20(d)) required pursuant to §1.137(d).

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: (703) 872-9306
ATTN: NANCY JOHNSON
SENIOR PETITIONS ATTORNEY

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) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Advisory Action

FAX RECEIVED

AUG 17 2006

OFFICE OF PETITIONS

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/377,551	Applicant(s) LIU ET AL.
	Examiner Konata M. George	Art Unit 1616

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

THE REPLY FILED 01 May 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 6 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

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

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

NOTICE OF APPEAL

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

AMENDMENTS

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

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

   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: *1-5*.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

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

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
13. ☐ Other: _____.

JOHANN RICHTER
SUPERVISORY PATENT EXAMINER
GROUP 1200

Continuation Sheet (PTO-303)

Application No. 10/377,551

Continuation of 3. NOTE: The claims have been amended to include intended use. Said amendment do not distingulsh over the Whittemore et al. reference, which teaches every element of the claims, thus rendereing it obvious.

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

COPY MAILED

AUG 2 2 2005

OFFICE OF PETITIONS

In re Application of
Brown et al.
Application No. 10/377,562
Filed: February 28, 2003
Attorney Docket Number: TGS-00503

: NOTICE

This is a notice regarding your request filed on October 4, 2004, for acceptance of a fee deficiency submission under 37 CFR 1.28 (c).

37 CFR 1.28 (c) states: "The deficiency is based on the amount of the fee, for other than a small entity, in effect at the time the deficiency is paid in full." Accordingly, the fee deficiency submission under 37 CFR 1.28 is hereby accepted.

The change in status to a large entity has been entered and made of record.

The address on the petition differs from the correspondence address of record. While a courtesy copy of this decision is being mailed to the person signing the present 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 specific to this decision may be directed to the undersigned at (571) 272-3215.

Charlema R. Grant
Petitions Attorney
Office of Petitions

cc: PATENT GROUP
CHOATE, HALL & STEWART LLP
EXCHANGE PLACE
53 STATE STREET
BOSTON, MA 02109-2804

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 23 2005

Nils H. Ljungman, Esq.
Kennametal INC.
1600 Technology Way
Latrobe, PA 15650-0231

In re Application of: Borschert et al.	:	
Appl. No.: 10/377,588	:	DECISION ON PETITION
Filed: February 28. 2003	:	
For: TWIST DRILL WITH A PREPLACEABLE	:	
CUTTING INSERT AND A ROTARY	:	
CUTTING TOOL WITH A REPLACEABLE	:	
CUTTING INSERT	:	

This is a decision on the petition filed on December 7, 2005 by which petitioners request acceptance of a duplicate paper. The petition is considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is granted.

As recognized by petitioner, the examiner has not considered an information disclosure statement allegedly filed by petitioner on July 3, 2003. After inquiry, petitioner discovered the Office records contained no copy of said disclosure statement. Petitioner has petitioned for acceptance of a duplicate of said information disclosure statement.

Petitioner has supported his allegation that the information disclosure statement in question was filed by petitioner on July 3, 2003 by furnishing a copy of the information disclosure statement transmittal, a copy of the IDS (PTO 1449), copies of the prior art, and a copy of a post card filing receipt for the submission which shows that the submission was in fact received in the office on July 7, 2003. Based upon this evidence, the duplicate information disclosure statement is accepted. The file will be forwarded to the examiner of record for consideration of the July 3, 2003 information disclosure statement.

PETITION GRANTED

Frederick R. Schmidt, Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FINNEGAN HENDERSON FARABOW
GARRETT & DUNNER
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

COPY MAILED

JUL 19 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Shinichi Ito et al :
Application No. 10/377,597 :
Filed: March 4, 2003 :
Attorney Docket No. 04329.3008 :

This is a decision on the petition filed July 18, 2005, which is being treated under 37 CFR 1.313 (c)(2), to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 22, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 2828 for processing of the request for continued examination under 37 CFR 1.114.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ENZO BIOCHEM, INC.
527 MADISON AVENUE (9TH FLOOR)
NEW YORK NY 10022

MAILED

MAR 3 1 2010

OFFICE OF PETITIONS

In re Application of	:	
Jayanta Roy-Chowdhury, et al.	:	
Application No. 10/377,603	:	ON PETITION
Filed: March 4, 2003	:	
Attorney Docket No. 59046.000027 (Enz-55(C2))	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 15, 2010, 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 31, 2009. 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 1, 2009. The Notice of Abandonment was mailed October 13, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405, and the submission required by 37 CFR 1.114; (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 1644 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.

Terri Johnson
Petitions Examiner
Office of Petitions

cc: **Scott F. Yarnell**
HUNTON & WILLIAMS LLP
1900 K Street, N.W., Suite 1200
Washington DC 20006-11009

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 7

NAVAL MEDICAL RESEARCH CENTER
ATTN: (CODE 00L)
503 ROBERT GRANT AVENUE
SILVER SPRING, MD 20910-7500

COPY MAILED

MAR 2 2 2004

OFFICE OF PETITIONS

In re Application of :
Carucci, et al.
Application No.: 10/377,636 : ON PETITION
Filed: March 4, 2003 :
Attorney Docket No: NC 83.732 :

This is in response to the petition under 37 CFR 1.137(b) filed March 4, 2004.

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

On May 9, 2003, a "Notice to File Missing Parts of Nonprovisional Application" (the "Notice") was mailed by the Office allowing a two-month period for reply. Extension of time were available pursuant to 37 CFR 1.136(a). The Notice required an executed oath or declaration, a $130.00 surcharge, a statement relative to the sequence listing, and the sequence listing. A proper response was not received within the allowable period, and the application became abandoned on July 10, 2003. A Notice of Abandonment was mailed on February 11, 2004.

The declaration filed March 4, 2004, is noted and made of record.

The sequence listing, and preliminary amendment, and computer readable form of the sequence listing filed March 4, 2004, are noted.

Deposit account 14-0595 will be charged $130.00 for the surcharge for the late filing of the executed declaration.

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

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0010.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

NAVAL MEDICAL RESEARCH CENTER
ATTN: (CODE 00L)
503 ROBERT GRANT AVENUE
SILVER SPRING MD 20910-7500

COPY MAILED

AUG 0 9 2005

OFFICE OF PETITIONS

In re Application of	:	
Carucci et al.	:	
Application No. 10/377,636	:	ON PETITION
Filed: March 4, 2003	:	
Attorney Docket No. NC 83,732	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed June 29, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the restriction requirement mailed November 9, 2004, which set a shortened statutory period for reply of one (1) month. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on December 10, 2004. A Notice of Abandonment was mailed June 28, 2005.

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

This matter is being referred to Technology Center 1600 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 7-12-06

TO SPE OF : ART UNIT 2873

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/377702 Patent No.: 6995925

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.

Can coc be approved

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

Certificates of Correction Branch

703-308-9390 ext. 117

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

RICKY MACK

SUPERVISORY PATENT EXAMINER

SPE

2873

Art Unit

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)
6965813	2005-11-15	10377724	2003-03-04	1503-misc

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	/Benoit Castel/	Date (YYYY-MM-DD)	2010-01-29
Name	Benoit Castel	Registration Number	35041

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. 6965813
Issue Date: November 15,2005
Application No. 10377724
Filed: March 4,2003
Attorney Docket No. 1510-1046

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

This is a decision on the electronic petition, filed January 29,2010 ,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 29,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/377,725	03/04/2003	Shunpei Yamazaki	0756-7130	2632

31780 7590 02/23/2010
ERIC ROBINSON
PMB 955
21010 SOUTHBANK ST.
POTOMAC FALLS, VA 20165

EXAMINER
HU, SHOUXIANG

ART UNIT	PAPER NUMBER
2811	

MAIL DATE	DELIVERY MODE
02/23/2010	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Eric Robinson
PMB 955
21010 SOUTHBANK ST.
POTOMAC FALLS VA 20165

In re Application of:
Shunpei Yamazaki et al.
Serial No.: 10/377,725
Filed: 04 March 2003
Attorney Docket No.: **0756-7130**

DECISION ON PETITION FOR ACCEPTANCE OF COLOR DRAWINGS UNDER 37 CFR 1.84(a)(2)

This is a decision on the petition, filed 17 July 2003, to accept color drawings under 37 CFR 1.84(a)(2) .

The petition is **GRANTED**.

The petition complies with the conditions for a grantable petition under 37 CFR 1.84(a)(2).

The petition includes an appropriate and acceptable explanation regarding why the color drawings are necessary' the required petition fee, three sets of color drawings for figure 25, and the specification has been amended by the preliminary filed on 17 July 2003 to include the required paragraph in the brief description of the drawings.

Accordingly, figure 25 is hereby accepted as a formal drawing in color in the above-referenced application.

Any inquiries regarding this decision should be directed to the undersigned at (571) 272-1670.

Lynne A. Gurley, Supervisory Patent 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
www.uspto.gov

Paper No. 4

Crompton, Seager & Tufte, LLC.
Suite 800
1221 Nicolet Avenue
Minneapolis MN 55403

COPY MAILED

JUN 1 1 2003

OFFICE OF PETITIONS

In re Application of :
Amer :
Application No. 10/377,859 :
Filed: February 28, 2003 :
Attorney Docket No. 41817-0020 (1156.1103101) :

ON PETITION

This is a decision on the petition filed May 23, 2003, to accord the above-identified application a filing date of February 28, 2003, instead of March 4, 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 28, 2003.

The file is now being forwarded to the Office of Initial Patent Examination to accord the application a filing date of February 28, 2003.

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JASON P. FIORILLO
K&L GATES LLP
STATE STREET FINANCIAL CENTER
ONE LINCOLN STREET
BOSTON, MA 02111-2950

COPY MAILED

MAY 06 2009

OFFICE OF PETITIONS

In re Application of	:	
Maher Amer	:	DECISION ON PETITION
Application No. 10/377,859	:	TO WITHDRAW
Filed: February 28, 2003	:	FROM RECORD
Attorney Docket No. 9931-0022	:	

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 29, 2005.

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

A review of the file record indicates that on January 19, 2006 the power of attorney to K & L Gates LLP was revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to Petitions Examiner Joan Olszewski at 571-272- 7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

cc: Stolowitz Ford Cowger LLP
621 SW Morrison St
Suite 600
Portland OR 97205

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

Stolowitz Ford Cowger LLP
621 SW Morrison St
Suite 600
Portland, OR 97205

Mail Date: 04/21/2010

Applicant	: Maher Amer	: DECISION ON REQUEST FOR
Patent Number	: 7623585	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/377,859	: 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 **976** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED

MAY 24 2006

OFFICE OF PETITIONS

In re Application of	:	
Maher Amer	:	
Application No. 10/377,860	:	DECISION ON PETITION
Filed: February 28, 2003	:	TO WITHDRAW
Attorney Docket No. ICE-012 (0519220.0115)	:	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 2, 2005.

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

The file record discloses that a power of attorney for the attorneys associated with Customer Number 021323 was received on December 11, 2003 and was accepted on November 18, 2004. The present request to withdraw as attorney is signed by Jason P. Fiorillo, who requests withdrawal of all attorneys associated with Customer Number 022832. It is noted that Jason P. Fiorillo, among others, are associated with both Customer Numbers 021323 and 022832.

A further review of the file record indicates that the power of attorney to Jason P. Fiorillo and the attorneys associated with Customer Number 021323 has been revoked by the assignee of the patent application on January 23, 2006. Accordingly, as the power of attorney received on January 23, 2006 revokes all previous powers of attorney, 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- 3218.

Frances Hicks
Petitions Examiner
Office of Petitions

cc:

Berkeley Law & Technology Group
1700 NW 167th Place, Suite 240
Beaverton, OR 97006

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

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

COPY MAILED

DEC 2 2 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of
Takashi Kashine
Application No. 10/377,889
Filed: March 4, 2003
Attorney Docket No.: 1152264

This is a decision on the petition, filed December 21, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on September 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 relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2836 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

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

INTERNATIONAL BUSINESS MACHINES CORP
IP LAW
555 BAILEY AVENUE , J46/G4
SAN JOSE, CA 95141

Mail Date: 04/20/2010

Applicant	: Fred Koo	: DECISION ON REQUEST FOR
Patent Number	: 7587383	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/377,896	: 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 **1390** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

MAILED

APR 19 2006

TECHNOLOGY CENTER 2100

In re Application of: YAGAWA, et al.
Application No. 10/377,899
Filed: 28 February 2003
For: DATA LINKAGE METHOD AND SYSTEM

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

This is a decision on the petition submitted 10 February 2005, and a copy of the same which was filed on 6 October 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 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 Programs Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

GO

UNITED STATES PATENT AND TRADEMARK OFFICE

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

STEVEN G.K. LEE
CHEVRON TEXACO CORPORATION
P.O. BOX 6006
SAN RAMON, CA 94583-0806

COPY MAILED

NOV 0 7 2008

OFFICE OF PETITIONS

In re Application of	:	
LEEUWEN, Jeroen Van	:	
Application No. 10/377,915	:	DECISION ON PETITION
Filed: February 27, 2003	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. **T-6206**	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 30, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to file a complete and proper appeal brief within the time period provided in 37 CFR 41.37(a)(1). As a complete and proper appeal brief was not filed within one (1) month of the Notification of Non-Compliance with 37 CFR 41.37(c)(1), mailed December 6, 2006, 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 January 9, 2007(January 7, 2007 was a Saturday). *See* MPEP 1215.04.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1500; and (3) an adequate statement of unintentional delay.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the office will mail all future correspondence solely to the address of record.

The application is being referred to Technology Center 1764 for processing of the amendment.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253.

Brian W. Brown
Petitions Examiner
Office of Petitions

cc: **JOSEPH P. FOLEY**
CHEVRON CORPORATION – LAW DEPT
6001 BOLLINGER CANYON ROAD
SAN RAMON, CA 94583-2324

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

MAR 2 8 2007

Technology Center 2100

Benjamin S. Withrow
WITHROW & TERRANOVA, P.L.L.C.
P.O. Box 1287
Cary, NC 27512

In re Application of:
Robert P. MORRIS et al.
Application No. 10/377,920
Filed: February 27, 2003
For: PHOTOSHARING SERVER FILTERS FOR AUTOMATIC STORAGE AND SHARING OF DIGITAL FILES

DECISION GRANTING PETITION TO RESET PERIOD FOR REPLY

This is a decision on the petition filed on 13 December 2006, requesting that the shortened statutory period for reply set forth in the Office communication mailed on 13 June 2006 be restarted so that no extension of time fees are necessary.

In the absence of any apparent irregularity associated with the mailing of an Office communication, the Office presumes that the communication was properly mailed to the address of record. This presumption may be overcome by showing that the Office communication was not received.

The relevant portion of MPEP § 711.03(c) states:

> The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

In support of the petition, the petitioner stated that the Final Office Action mailed 13 June 2006 was never received by applicants and stated applicant's representative only discovered the Final Office Action during a recent review of the PAIR system. The petitioner supplied a copy of docket record (Exhibit A) showing that the Final Office Action was never received by applicant's representative. The docket record shows no entry reflecting receipt of the Final Office Action.

Since the petitioner failed to provide a statement attesting to the fact that a search of the file jacket and docket record indicated that the Final Office Action was not received, he has not met the criteria of set out in MPEP § 711.03(c) for establishing failure to receive the Final Office Action mailed 13 June 2006. To expedite the prosecution of this application, the undersigned is

hereby assuming that the petitioner did search the file jacket and docket record and the petitioner found no record of receiving the Final Office Action.

For the above-stated reasons, the petition is **GRANTED**. Accordingly, the shortened statutory period that was originally set forth in the Final Office Action mailed on 13 June 2006 is hereby reset to run FROM THE DATE OF 13 December 2006.

Applicant's submissions of Response to the Final Office Action dated 13 December 2006 will be processed and entered by Technology Center Support Staff. The three-months extension of time fee ($1020.00) paid on December 13, 2006 will be credited to Deposit Account No. 50-1732.

Any inquiry concerning this decision should be directed to the undersigned whose telephone is (571) 272-3613.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

MAR 2 8 2007

Technology Center 2100

Benjamin S. Withrow
WITHROW & TERRANOVA, P.L.L.C.
P.O. Box 1287
Cary, NC 27512

In re Application of:
Robert P. MORRIS et al.
Application No. 10/377,920
Filed: February 27, 2003
For: PHOTOSHARING SERVER FILTERS FOR AUTOMATIC STORAGE AND SHARING OF DIGITAL FILES

DECISION GRANTING PETITION TO RESET PERIOD FOR REPLY

This is a decision on the petition filed on 13 December 2006, requesting that the shortened statutory period for reply set forth in the Office communication mailed on 13 June 2006 be restarted so that no extension of time fees are necessary.

In the absence of any apparent irregularity associated with the mailing of an Office communication, the Office presumes that the communication was properly mailed to the address of record. This presumption may be overcome by showing that the Office communication was not received.

The relevant portion of MPEP § 711.03(c) states:

> The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

In support of the petition, the petitioner stated that the Final Office Action mailed 13 June 2006 was never received by applicants and stated applicant's representative only discovered the Final Office Action during a recent review of the PAIR system. The petitioner supplied a copy of docket record (Exhibit A) showing that the Final Office Action was never received by applicant's representative. The docket record shows no entry reflecting receipt of the Final Office Action.

Since the petitioner failed to provide a statement attesting to the fact that a search of the file jacket and docket record indicated that the Final Office Action was not received, he has not met the criteria of set out in MPEP § 711.03(c) for establishing failure to receive the Final Office Action mailed 13 June 2006. To expedite the prosecution of this application, the undersigned is

hereby assuming that the petitioner did search the file jacket and docket record and the petitioner found no record of receiving the Final Office Action.

For the above-stated reasons, the petition is **GRANTED**. Accordingly, the shortened statutory period that was originally set forth in the Final Office Action mailed on 13 June 2006 is hereby reset to run FROM THE DATE OF 13 December 2006.

Applicant's submissions of Response to the Final Office Action dated 13 December 2006 will be processed and entered by Technology Center Support Staff. The three-months extension of time fee ($1020.00) paid on December 13, 2006 will be credited to Deposit Account No. 50-1732.

Any inquiry concerning this decision should be directed to the undersigned whose telephone is (571) 272-3613.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

JUN 15 2007

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

Dana S. Rewoldt, Esq.
Advanta USA, Inc.
2369-330th Street
P. O. Box 500
Slater IA 50244

In re Application of	:
Richard Stelpflug	:
Serial No.: 10/377,930	: PETITION DECISION
Filed: February 28, 2003	:
Attorney Docket No.: G7403	:

This is in response to the petition under 37 CFR § 1.59(b), filed May 18, 2007, to expunge information from the above identified application. This application has been allowed.

Petitioner requests that the Reply to Request for Information Under 37 CFR 1.105, and all attachments thereto, submitted to the Patent Office on October 11, 2006, be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

The reasons set forth in this petition establishes to the satisfaction of the Director that expungement of the information is appropriate. The file entries for those documents have been closed and as such the documents are no longer publicly available, which is the IFW equivalent to removal of a paper document from a paper file wrapper. Also, as stated in M.P.E.P. 724, upon allowance or other action closing prosecution in an application, petition may be made for return of Proprietary information. As this application has been allowed, the information is being returned to applicant.

Therefore, applicant's petition is GRANTED.

Should there be any questions about this decision please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 703-872-9306.

Marianne C. Seidel
Quality Assurance Specialist/Program Examiner
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FAY KAPLUN & MARCIN, LLP
150 BROADWAY, SUITE 702
NEW YORK NY 10038

COPY MAILED

MAY 0 2 2008

OFFICE OF PETITIONS

In re Application of	:	
Pizzi et al.	:	
Application No. 10/377,938	:	DECISION ON PETITION
Filed: February 28, 2003	:	
Attorney Docket No. 40101/05901	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 8, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the Issue Fee Transmittal with payment of the issue and publication fees, (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 the Office of Data Management for processing into a patent.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MALLINCKRODT & MALLINCKRODT
10 EXCHANGE PLACE, SUITE 510
SALT LAKE CITY UT 84111

COPY MAILED

MAR 1 4 2005

OFFICE OF PETITIONS

In re Application of	:	
Troy T. Pribbanow	:	
Application No. 10/377,941	:	ON PETITION
Filed: March 1, 2003	:	
Attorney Docket No. 604-1-001	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 24, 2004, 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.

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.

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 $490 extension of time submitted with the petition on November 24, 2004, 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.

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

This matter is being referred to Technology Center AU 3712

Karen Creasy

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

cc:
THOMPSON E. FEHR
5025 ADAMS AVE., STE. 300
GOLDENWEST CORPORATE CTR.
OGDEN, UT 84403

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.g

THOMPSON E. FEHR
5025 ADAMS AVENYE
SUITE 300
OGDEN, UT 84403

COPY MAILED

JUL 3 1 2008

OFFICE OF PETITIONS

In re Application of :
Troy T. Pribbanow :
Application No. 10/377,941 : DECISION ON PETITION
Filed: March 1, 2003 :
Attorney Docket No. 604-1-001 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 11, 2008 to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed April 3, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 4, 2007. A Notice of Abandonment was mailed November 9, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee of $770.00, and (3) an adequate statement of unintentional delay.

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

This application is being referred to Technology Center AU 3711 for appropriate action by the Examiner in the normal course of business on the reply received.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

APR 1 5 2005

Technology Center 2100

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

In re Application of: SUGIMOTO et al.
Application No. 10/377,950
Filed: February 28, 2003
For: METHOD AND SYSTEM FOR RESOLVING DISARRANGEMENT IN DATABASE

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

This is a response to the Petition filed February 03, 2005, under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **GRANTED**.

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

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

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

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

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

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

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

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

The application file is being forwarded to the Examiner for accelerated examination in accordance with the procedures set forth in M.P.E.P. §708.02, Section VIII. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. §1309.

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

SDL: 04/11/05

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.

WARE FRESSOLA VAN DER
SLUYS & ADOLPHSON, LLP
BRADFORD GREEN, BUILDING 5
755 MAIN STREET, P O BOX 224
MONROE CT 06468

COPY MAILED

JUN 2 0 2007

OFFICE OF PETITIONS

In re Application of	:	
Vaananen et al.	:	DECISION ON PETITION
Application No. 10/377,956	:	
Filed: February 28, 2003	:	
Atty Docket No. 915-005.42	:	

This is in response to the paper styled "RESPONSE TO NOTICE OF ABANDONMENT" filed March 26, 2007, which is properly treated as a Petition to Withdraw Holding of Abandonment under 37 C.F.R. § 1.181(a).

The above-identified application became abandoned for failure to reply to the non-final Office action mailed October 6, 2005. The Office action set a three-month shortened statutory period, with extensions of time obtainable under § 1.136(a). No reply considered received and no extension obtained, the above-identified application became abandoned on January 7, 2006. A courtesy Notice of Abandonment was mailed on March 12, 2007.

In response, applicants timely filed the instant petition. Petitioner asserts that an Amendment in response to the Office Action of October 6, 2005, was mailed on January 3, 2006. In support thereof, petitioner submitted a copy of their return postcard and of the response.

A postcard receipt, which itemizes and properly identifies the items, which are being filed, serves as *prima facie* evidence of receipt in the Office of all items listed thereon on the date stamped thereon by the Office. See MPEP 503. A review of petitioner's postcard receipt reveals that: 1) it was date stamped as received in the USPTO on January 5, 2006;

2) it specifically identifies the items being filed, including an "Amendment and/or Response" and 3) it lacks any annotation of nonreceipt of any item denoted on the postcard. The evidence shows that a response should be considered timely filed on January 5, 2006.

Accordingly, the Notice of Abandonment mailed March 12, 2007 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 2618 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 consideration by the examiner of the response re-supplied on petition filed March 26, 2007.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date Mailed : 03/27/06

Patent No. : 6979765 B1
Inventor : NYHUS, KRIS A.
Patent Issued : 12/27/05
Docket No. : G6103

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.

Inspection of the file of the application for the patent reveals that in the cover page of the patent will be printed in accordance with the record (no fee or authorization to charge fee).
"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

Dana S. Rewoldt, Esq.
Advanta USA, Inc.
2369 - 330th Street
P.O. Box 500
Slater IA 50244

Cbn/Lmn

31 AUG 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

SMITH MOORE LLP
P.O. BOX 21927
GREENSBORO, NC 27420

In re Application of DIENER, Bernd et al. Application No.: 10/377,980 Filing Date: 27 February 2003 Docket No.: 5003073-037US1 For: POLYMER DISPERSIONS FOR PREVENTING AND CONTROLLING FIRES WITH IMPROVED ENVIRONMENTAL COMPATIBILITY	DECISION ON PETITION 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/EP01/09057 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/EP01/09057 became abandoned as to the United States of America for failure to pay the basic national fee by 24 February 2003 (23 February 2003 was a Sunday). 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/EP01/09057 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 10/377,980.

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.

Erin M. Pender

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: (703) 305-0455
Facsimile: (703) 308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SmithMoore LLP
P. O. Box 21927
Greensboro, NC 27420

COPY MAILED

JUN 09 2005

OFFICE OF PETITIONS

In re Application of	:	
Bernd Diener, et al.	:	
Application No. 10/377,980	:	DECISION ON PETITIONS
Filed: February 27, 2003	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 5003073.037US1	:	AND 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 prior-filed nonprovisional and PCT applications, and under 35 U.S.C. § 119(a)-(d) for the benefit of a prior-filed foreign application, as set forth in the concurrently filed amendment and Application Data Sheet (ADS), respectively.

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

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

All requirements being met, the petition to accept an unintentionally delayed claim for priority under 37 CFR 1.78(a)(3) is **GRANTED.**

As to the benefit claim under 37 CFR 1.55(c):

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;
(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date, **and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6);**
(3) the surcharge as set forth in 37 CFR 1.17(t);
(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional. (The Commissioner may require additional information where there is a question whether the delay was unintentional.); and
(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

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**.

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 this application is entitled to the benefit of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§ 120 and 365(c) and 37 CFR 1.78(a)(1) and (a)(2) and 35 § U.S.C. 119(a)-(d) and 37 CFR 1.55(a)(1) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether this application is entitled to the benefit of the earlier filing date.

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

Any inquiries concerning this decision may be directed to Marianne Jenkins at (571) 272-3223. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being 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, 365(c) and 35 U.S.C. § 119(a)-(d) of the prior-filed applications.

Frances Hicks

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

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

RECEIVED
JAN 2 6 2004
Technology Center 2100

Paper No. 6

WEISS & MOY PC
4204 NORTH BROWN AVENUE
SCOTTSDALE AZ 85251

In re Application of: ROBERT F. SNAPP, ET AL.
Application No.: 10/377,989
Filed: February 28, 2003
For: **METHOD AND SYSTEM FOR STORING AND RETRIEVING DATA USING HASH-ACCESSED MULTIPLE DATA STORES**

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

This is a decision on the petition, filed December 11, 2003 under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination, to make the above-identified application special.

The petition is **DISMISSED**.

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

> A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:
>
> (A) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);
>
> (B) Presents all claims directed to a **single invention**, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an **election without traverse** as a prerequisite to the grant of special status.
>
> (C) Submits a statement(s) that a pre - examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;
>
> (D) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and
>
> (E) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111(b) and (c), how the claimed subject matter is patentable over the references.
>
> In those instances where the request for this special status does not meet all the prerequisites set forth above, applicant will be notified and the defects in the request will be stated. The application will remain in the status of a new application awaiting action in its regular turn. In those instances where a request is defective in one or more respects, applicant will be given one opportunity to perfect the request in a renewed petition to make special. If perfected, the request will then be granted. If not perfected in the first renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Group Special Program Examiner.

Petitioner's submission is deficient in that it does not comply with item (B) above:
The petition does not contain the statement that Petitioner will make an election ***without traverse*** if the Office determines that all claims are not obviously directed to a single invention.

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.

Bot LeDynh, J.D., Ph.D.
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
(703) 305-0651

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

FEB 20 2004

Paper No. 8

Technology Center 2100

WEISS & MOY PC
4204 NORTH BROWN AVENUE
SCOTTSDALE AZ 85251

In re Application of: ROBERT F. SNAPP, ET AL. Application No.: 10/377,989 Filed: February 28, 2003 For: **METHOD AND SYSTEM FOR STORING AND RETRIEVING DATA USING HASH-ACCESSED MULTIPLE DATA STORES**	**DECISION ON PETITION FOR ACCELERATED EXAMINATION UNDER M.P.E.P. §708.02(VIII)**

This is a decision on the petition, filed December 11, 2003, supplemented by Petitioner's submission dated February 18, 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.

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. 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.

Petitioner's submission filed February 18, 2004 cures the deficiencies in the original Petition noted in the decision mailed January 26, 2004. Accordingly, the Petition is **GRANTED**.

The application file is being forwarded to the Examiner of Record for following the special examining procedure set forth in M.P.E.P. §708.02.

Bot LeDynh, J.D., Ph.D.
Special Programs Examiner

Technology Center 2100
Computer Architecture, Software, and Information Security
(703) 305-0651

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

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

MAILED

FEB 27 2009

OFFICE OF PETITIONS

In re Application of :
Robert F. Snapp, et al. :
Application No.: 10/377,989 :
Filed: February 28, 2003 :
Attorney Docket No.: 08049.1005 :

ON PETITION

This is a decision on the petition, filed February 24, 2009, 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 25, 2008, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The application is being referred to Technology Center AU 2169 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement (IDS).

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov
DIW Sep-06

OKAMOTO & BENEDICTO, LLP
P.O. BOX 641330
SAN JOSE CA 95164

COPY MAILED
SEP 22 2006
OFFICE OF PETITIONS

In re Patent No. 7,027,202	:	
Issued: 11 April, 2006	:	
Application No. 10/377,994	:	ON PETITION
Filed: 28 February, 2003	:	
Atty Dckt No. SLM-12200	:	

This is a decision on the petition filed on 23 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**.

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 referred to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

[1] See Official Gazette of 22 June, 2004.

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

VAN PELT, YI & JAMES LLP AND EMC CORPORATION
10050 N. FOOTHILL BLVD.
SUITE 200
CUPERTINO, CA 95014

COPY MAILED

FEB 27 2008

OFFICE OF PETITIONS

In re Application of :
Thomas A. Summerlin, et al. :
Application No. 10/378,025 :
Filed: February 28, 2003 :
Attorney Docket No. DOCM-005/01US :

ON PETITION

This is a decision in response to the petition, filed October 12, 2007, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

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

It is noted that an amendment was included with the petition filed on October 12, 2007. However, the amendment is considered non-responsive, since it did not place the application in condition for allowance. See the attached Advisory Action. The proposed reply required for consideration of a petition to revive this application must be a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)), an amendment that *prima facie* places the application in condition

[1] As amended effective December 1, 1997. See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53194-95 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 119-20 (October 21, 1997).

[2] In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

for allowance, or the filing of a submission under 37 CFR 114 (RCE) or a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2).

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

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

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

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Attachment: Advisory Action

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/378,025	Applicant(s) SUMMERLIN ET AL.	
	Examiner Shahid Al Alam	Art Unit 2162	

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

THE REPLY FILED 12 October 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

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

NOTICE OF APPEAL

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

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.
   NOTE: *See Continuation Sheet*. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: *13-36*.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

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

REQUEST FOR RECONSIDERATION/OTHER

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

/Shahid Al Alam/
Primary Examiner
Art Unit: 2162

Continuation of 3. NOTE: Amendment of the claims need further search and consideration..

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

VAN PELT, YI & JAMES LLP AND EMC CORPORATION
10050 N. FOOTHILL BLVD.
SUITE 200
CUPERTINO, CA 95014

COPY MAILED

JUN 1 8 2008

OFFICE OF PETITIONS

In re Application of	:	
Thomas A. Summerlin, et al.	:	
Application No. 10/378,025	:	ON PETITION
Filed: February 28, 2003	:	
Attorney Docket No. DOCM-005/01US	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed March 17, 2008, to revive the above-identified application.

The petition is **GRANTED**.

A review of the record discloses that this application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed March 21, 2007, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on June 22, 2007. On October 12, 2007 a petition to revive under 37 CFR 1.137(b) was filed; however, the petition was dismissed in a decision mailed February 27, 2008. In response, on March 7, 2008, the present petition was filed.

The petition is found to comply with the requirements of 37 CFR 1.137(b). The application is being revived for consideration of a submission under 37 CFR 1.114 (request for continued examination).

It is noted that petitioner was charged in association with the renewed petition filed March 7, 2008. Since no further petition fee is required, the $1,540 petition fee is being credited to counsel's deposit account.

This application is being referred to Technology Center AU 2162 for processing of the RCE filed March 17, 2008 and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

COPY MAILED
AUG 25 2006
OFFICE OF PETITIONS

Thomas F. Roland
NATIONAL STARCH AND CHEMICAL COMPANY
P.O. Box 6500
Bridgewater, NJ 08807-0500

In re Application of	:
Mukherjee, et al.	: DECISION ON PETITION
Application No. 10/378,026	:
Filed: February 28, 2003	:
For: 2017.PHM	:

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 15, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned April 28, 2005 for failure to timely reply to the non-final Office action mailed January 27, 2005. The non-final Office action set a three (3) month shortened statutory period of time for reply. No petition for extension of time in accordance with 37 C.F.R. § 1.136 was timely submitted. Notice of Abandonment was mailed February 1, 2006.

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

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

This application will be forwarded to Technology Center 1700 for further processing.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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

COPY MAILED

MAY 21 2004

OFFICE OF PETITIONS

JAMES KUAN/TRIATEK, INC.
2976 PACIFIC DRIVE
NORCROSS, GA 30071

In re Application of :
Scholten :
Application No. 10/378,033 :
Filed: March 4, 2003 :
For: Optical Sash Sensing System for Fume Hoods :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(a), filed April 15, 2004, to revive the above-identified application. The petition is also being treated under 37 CFR 1.181 (no fee) as a petition to withdraw the holding of abandonment.

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

The petition under 37 CFR 1.137(a) is **dismissed as moot**.

The above-identified application was deemed abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers (Notice) mailed May 1, 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 was deemed abandoned on August 2, 2003. A Notice of Abandonment was mailed on February 18, 2004.

Petitioner contends and has established that the Notice was never received.

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

Since the petition has been granted under 37 CFR 1.181, the petitioner's request to have the petition considered under 37 CFR 1.137(a) is dismissed as moot. No petition fee is required for a petition to withdraw holding of abandonment under 37 CFR 1.181. Therefore, the petition fee is refundable.

A review of Office financial records indicates that petitioner's credit card was charged three times for the $9 fee and twice for the $55 fee. The Office will refund all these funds except $9. In other words, $128 will be credited back to petitioner's credit card.

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

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

RECEIVED
CENTRAL FAX CENTER
SEP 2 1 2004

REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT

Application Number	10/378,041
Filing Date	February 27, 2003
First Named Inventor	Shaoher X. Pan
Examiner	Unknown
Group Art Unit	1746
Attorney Docket Number	23340-07026

To:

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

I hereby apply to withdraw as attorney or agent for the above- identified patent application. The client has been duly notified of this request for withdrawal and provided with all papers and property to which the client is entitled.

The reasons for this request are:

The client knowingly and freely assents to, and has requested, termination of the employment.

Approved FEB 2 3 2005

JM Stone

Jacqueline M. Stone, Director
Technology Center 1700

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

Firm or Individual Name	Richard T. Ogawa Townsend & Townsend and Crew LLP				
Address	379 Lytton Avenue				
Address					
City	Palo Alto	State	CA	Zip	94301
Country	USA				
Telephone	(650) 326-2400	Fax	(650) 326-2422		

☐ This request is made on behalf of myself and
- ☐ all the attorneys/agents of record,
- ☐ the attorneys/agents (with registration numbers) listed on the attached paper(s), or
- ☒ the attorneys/agents associated with Customer Number 758

on whose behalf I have signed this request and on whose behalf I am authorized to sign. The request is enclosed in triplicate (including any attachments).

Name	Greg T. Suzuka, Reg. #33,800
Signature	Greg Suzuka
Date	9/21/04

NOTE: Withdrawal is effective when approved rather than when received. Unless there are at least 30 days between approval of withdrawal and the expiration date of a time period for response or possible extension period, the request to withdraw is normally disapproved.

466457.1

UNITED STATES PATENT AND TRADEMARK OFFICE

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

NV

Paper No. 121404

JAN 6 2005

FENWICK AND WEST LLC
801 California Street
Silicon Valley Ctr
Mountain View, CA 94041

In re Application of:	:	
Shaoher X. Pan	:	DECISION ON REQUEST TO WITHDRAW FROM RECORD
Serial No.: 10/378,056	:	
Filed: February 27, 2003	:	
Attorney Docket No.: **23340-07025**	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed September 21, 2004.

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 Townsend and Townsend and Crew was filed on October 26, 2004. 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 (571) 272-1594.

Clayton E. LaBalle, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

CEL/nmc

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

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

Richard T Ogawa
Townsend & Townsend and Crew LLP
379 Lytton Avenue
Palo Alto CA 94301

(Address of Record)

COPY MAILED

OCT 0 6 2004

OFFICE OF PETITIONS

In re Application of
Shaoher X. Pan
Application No. 10/378,058
Filed: February 27, 2003
For: ARCHITECTURE OF A REFLECTIVE SPATIAL LIGHT MODULATOR

: Decision
: On Petition

On February 2, 2004, a request was filed under MPEP Section 106 by Dongmin Chen on behalf of the assignee, Miradia, Inc., to bar the inventor, Shaoher X. Pan, from access to the above referenced application.

As explained below, the petition is **DISMISSED**.

The above referenced application was published as U.S. patent application publication no. 2004/0004753 on January 8, 2004. In a notice mailed September 8, 2004, the application was held to have been abandoned on June 2, 2004, for a failure to respond to an outstanding office action.

Any member of the public, including the inventor, is entitled to inspect the contents of an application file once it has been published. See 37 CFR 1.11(a). In addition, once a patent application has been abandoned there is no further prosecution of the application.

Hence there are no proceedings in the above referenced application from which the inventor needs to be barred or contents of the file which the inventor is not entitled to inspect.

Telephone inquiries should be directed to the undersigned at Michael L. Lewis at (571)272-7755.

Sor/ Karin Feriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Dongmin Chen (Petitioner)
VP of Engineering and CFO
Miradia, Inc.
2880 Lakeside Drive
Santa Clara, CA 95054

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 11

CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON, DC 20044-4300

COPY MAILED
FEB 12 2004
OFFICE OF PETITIONS

In re Application of :
Nakatani, et al. :
Filed: March 4, 2003 : ON PETITION
Application No. 10/378,060 :
Attorney Docket No.: 038921/52217US :

This decision is in response to the "Response To Notice Of Omitted Item(s) In A Nonprovisional Application" filed October 22, 2003 and supplemented January 27, 2004. This matter is being treated as a petition for withdrawal of the corrected Notice to File Omitted Items(s) in a Nonprovisional Application and a petition to accord the instant application a filing date of March 4, 2003.

The above-referenced application was filed March 4, 2003. A Notice to File Missing Parts of Application was mailed May 28, 2003. The Notice to File Missing Parts of Application indicated that the application had been accorded a filing date and application number but required applicant to submit, *inter alia*, an English translation of the specification, a statement that the translation is accurate, and the required fee of $130.00. Applicant responded to the Notice July 28, 2003 by submitted the English language translation of the specification among other items. Thereafter, on September 25, 2003, a Withdrawal of Previously Sent Notice and corrected Notice of Omitted Item(s) in a Nonprovisional Application were mailed. The corrected Notice of Omitted Item(s) in a Nonprovisional Application indicated that the application had been accorded a filing date but that pages 22-29 of the specification appeared to have been omitted. The corrected Notice further indicated that the filing date of the application would be the date of submission of the omitted items. The omitted pages of the English language translation were submitted by supplemental petition January 27, 2004.

Petitioner argues the corrected Notice was mailed in error and should be withdrawn.

A review of the official application file confirms that the application was complete within the meaning of 37 C.F.R. § 1.53(b) on March 4, 2003. Accordingly, the corrected Notice mailed September 25, 2003 was mailed in error.

The corrected Notice mailed September 25, 2003 is hereby **WITHDRAWN** and the petition to accord the application a filing date of March 4, 2003 is hereby **GRANTED**.

No fee is due in connection with this petition.

This application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of March 4, 2003 and for entry of the English language translation of pages 22-29 of the specification.

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

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

SIMON GALASSO & FRANTZ PLC
PO BOX 26503
AUSTIN TX 78755-0503

COPY MAILED
SEP 04 2003
OFFICE OF PETITIONS

In re Application of
Patterson, et al.
Application No. 10/378,062
Filed: March 3, 2003
Title: FILM PROCESSING SOLUTION CARTRIDGE AND METHOD FOR DEVELOPING AND DIGITIZING FILM

DECISION DISMISSING PETITION

This is a decision on the petition filed July 18, 2003 (Certificate of Mailing dated July 14, 2003), requesting that the above-identified application be accorded a filing date of March 3, 2003, with Figure 2A of the drawings as part of the disclosure.

The above-identified application was deposited on March 3, 2003. On May 14, 2003, the Office of Initial Patent Examination mailed a Notice to File Missing Parts of Nonprovisional Application (Notice), informing applicant that the application had been accorded a filing date; however, Figure 2A of the drawings appeared to have been omitted. Additionally, the Notice indicated that the statutory basic filing fee and the oath or declaration were missing.

On petition, petitioner has not presented any evidence that Figure 2A was filed in the above-identified application (e.g. a USPTO date stamped postcard receipt). Moreover, petitioner does not argue that he filed Figure 2A in the above-identified application. Rather, petitioner argues that Figure 2A was filed in parent application no. 09/778,022 on June 19, 2003, in response to a Notice of Drawing Inconsistency with Specification, mailed for the parent application on May 16, 2003. Because the Office accepted Figure 2A in the parent application, as evidenced by the issuance of that application on July 29, 2003, petitioner contends that Figure 2A should be allowed into the instant child application, with a filing date of March 3, 2003.

The argument is not well taken. There was no incorporation by reference of parent application no. 09/778,022 at all in the instant application filed on March 3, 2003. This is not a case where the incorporation by reference was improper. There was simply no incorporation by reference anywhere in the specification. A claim for priority under 35 U.S.C. 119 in a transmittal letter or a specification is not an incorporation by reference of subject matter into a specification.[1] Petitioner has not cited any statute, regulation or case law to support his argument.

Because petitioner has not requested a filing date of July 18, 2003 (the date Figure 2A was filed), the drawing of Figures 2A filed on July 18, 2003, will not be entered. Any request to accord the application a filing date of July 18, 2003, with Figure 2A as part of the application is by way of petition under 37 CFR 1.182. Any such petition must be filed with the $130 petition fee within **TWO (2) MONTHS** of the date of this decision to be considered timely.

Alternatively, petitioner may file an Amendment to add Figure 2A, providing that Figure 2A does not include new matter.

The petition fee of $130 has been charged to Deposit Account No. 50-1259, as authorized.

The application file is being returned to the Office of Initial Patent Examination for further processing with the presently accorded filing date of March 3, 2003, using the application papers received on that date and for indication in the Office records that 8 sheets of drawings were present on filing.

Any inquiries related to this decision should be directed to Petitions Attorney Cliff Congo at (703) 306-5589.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

---

[1] See MPEP 201.06(c) at 200-37.

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

MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 300
MCLEAN VA 22102

COPY MAILED

SEP 28 2005

OFFICE OF PETITIONS

In re Application of	:	
Ryuji Nishikawa	:	
Application No. 10/378,082	:	ON PETITION
Filed: March 4, 2003	:	
Attorney Docket No. 492322009800	:	

This is a decision on the petition, filed September 21, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

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

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

The examiner of Technology Center AU 2879 will consider the request for continued examination under 37 CFR 1.114.

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Goodman & Teilbaum
Suite 1400
26 Court Street
Brooklyn, NY 11242

COPY MAILED
NOV 14 2006
OFFICE OF PETITIONS

In re Application of Reiner Quanz Application No. 10/378,099 Filing or 371(c) Date 02/26/2003 Title of Invention: ROTATING TOOL WITH A CLAMPING SHANK	: : : : : : :	ON PETITION

This is a decision on the Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 C.F.R. § 1.137(b), filed July 24, 2006 (Certificate of Mailing dated July 20, 2006), and supplemented via facsimile July 24, 2006.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance and Issue Fee Due, mailed March 29, 2005. The Notice set a non-extendable three (3) month period for reply. No reply having been received, the application became abandoned on June 30, 2005. A Notice of Abandonment was mailed September 2, 2006.

Applicant has submitted the issue and publication fees with the instant petition.

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

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

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

Derek L. Woods
Attorney
Office of Petitions

CC: LACKENBACH SIEGEL LLP
ONE CHASE ROAD
SCARSDALE, NY 10583

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

COPY MAILED

OCT 25 2007

OFFICE OF PETITIONS

CHARLES G. CALL
215 W. HURON ST APT 2
CHICAGO, IL 60610-3331

In re Application of
Suraj S. Deshmukh, et al.
Application No. 10/378,129
Filed: March 3, 2003
Attorney Docket No. C-40

ON PETITION

This is a decision on the petition, filed July 9, 2007, to revive the above-identified application under 37 CFR 1.137(b).

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 June 16, 2006. A Notice of Abandonment was mailed on January 19, 2007. In response, on July 9, 2007, the present petition was filed, along with a Notice of Appeal (with fee) and a Pre-Appeal Brief Request for Review.

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).

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 $500; (2) the petition fee of 1,500; and (3) an adequate statement of unintentional delay.

Accordingly, the petition is GRANTED.

In view of the submission of the Pre-Appeal Brief Request for Review, the period of time for filing the appeal brief will be the later of the two-month period set in 37 CFR 41.37(a) or one month from the mail date of the decision on the request. **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 is being referred to Technology Center AU 3683 for further prosecution.

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

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

WEISS & MOY PC
4204 NORTH BROWN AVENUE
SCOTTSDALE AZ 85251

COPY MAILED

DEC 22 2009

OFFICE OF PETITIONS

In re Application of :
Jose L. GARCIA, Jr. et al. :
Application No. 10/378,145 : DECISION ON PETITION
Filed: March 04, 2003 :
Attorney Docket No. 3745P2598 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 21, 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, March 23, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on June 24, 2004.

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

1.137 was unintentional, the Director may require additional information. *See* MPEP 711.03(c)(II)(C) and (D). 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).

The affidavit by Michelle Ostiguin filed concurrently with the instant petition has been reviewed. The affidavit states that the Non-final Office action of March 23, 2004, was not received by JLG Trucking, Inc., a partial assignee of the instant application. Petitioner should note that the Office action was mailed to the address of record. As stated in item number 5 of the the affidavit, the copy of the Office action was mailed by Weiss & Moy, P.C. to JLG Trucking Inc. As the Office action was properly mailed by USPTO to the address of record and was evidently received at that address, whether the affiant received a copy of that Office action or not is not deemed to be material to the delay in responding to the Office action.

<u>As to Period (1):</u>

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]. <u>See</u> H.R. Rep. No. 542, 97th Cong., 2d Sess. 6-7 (1982), *reprinted in* 1982 U.S.C.C.A.N. 770-71. The revival of an intentionally abandoned

application is antithetical to the meaning and intent of the statute and regulation:

35 U.S.C. § 41(a)(7) authorizes the Director to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 CFR 1.137(b)(3) provides that a petition under 37 CFR 1.137(b) must be accompanied by a statement that the delay was unintentional, but provides that "[t]he Commissioner may require additional information where there is a question whether the delay was unintentional." Where, as here, there is a question whether the initial delay was unintentional, the petitioner must meet the burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). *See* In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989); 37 CFR 1.137(b). Here, in view of the inordinate delay (over 5 years) in resuming prosecution, there is a question whether the entire delay was unintentional. Petitioner should note that the issue is not whether some of the delay was unintentional by any party; rather, the issue is whether the entire delay has been shown to the satisfaction of the Director to be unintentional.

The question under 37 CFR 1.137(b) for period (1) is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unintentional. Accordingly, any renewed petition must clearly identify the party having the right to reply to avoid abandonment on June 24, 2004. That party, in turn must explain what effort(s) was made to further reply to the outstanding Office action and, further, why no reply was filed. If no effort was made to further reply, then that party must explain why the delay in this application does not result from a deliberate course of action (or inaction). Likewise, as WEISS & MOY PC was counsel of record at the time of abandonment, the attorneys should explain why this application became abandoned while it was under their control and what efforts the attorneys made to further reply of itself and with whom this matter was discussed.

Copies of any correspondence relating to the filing, or to not filing a further reply to the outstanding Office action are required from responsible person(s), involved with this application at the time of abandonment. Statements are required from the responsible person(s) having firsthand knowledge of the circumstances surrounding the lack of a reply to the outstanding Office action. As the courts have made clear, it is pointless for the USPTO to revive a long abandoned application without an adequate showing that the delay did not result from a deliberate course of action. *See* Lawman Armor v. Simon, 2005 U.S. Dist.

LEXIS 10843, 74 USPQ2d 1633 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005); Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996) (unpublished) (patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

As to Period (2):

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

The language of both 35 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 5 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 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.

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

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 2/13/09

TO SPE OF : ART UNIT 3763

SUBJECT : Request for Certificate of Correction for Appl. No.: 10378175 Patent No.: 7465293 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

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 AU 3763

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 Sep-08

LEXMARK INTERNATIONAL, INC.
INTELLECTUAL PROPERTY LAW DEPARTMENT
740 WEST NEW CIRCLE ROAD
BLDG. 082-1
LEXINGTON KY 40550-0999

COPY MAILED
SEP 11 2008

In re Application of	:	
Mark J. Edwards	:	
Application Number: 10/378179	:	ON PETITION
Filing Date: 03/03/2003	:	
Attorney Docket Number: 2002-0308.04	:	

This is a decision on the petition under 37 CFR 1.137(a), filed on July 9, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)" or "Renewed Petition under 37 CFR 1.137(b)." This is not a final agency decision.

This application became abandoned on December 25, 2007, for failure to timely file a response to the final Office action mailed on September 24, 2007, which set a three (3) month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on April 8, 2008.

Petitioner asserts unavoidable delay in that the final Office action mailed on September 24, 2007 was never received.

In support of the assertion of nonreceipt of the final Office action, petitioner has provided a statement from counsel's paralegal, Edna Clark, stating that the final Office action was never received. Petitioner has also provided a statement by Lori A. Woods and Robin A. Works, counsel's administrative assistants, explaining the system for handling incoming mail and entering it in counsel's docketing system.

Petitioner has submitted a request for continued examination (RCE) and an amendment as the submission under 37 CFR 1.114.

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by:

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

The showing of record is inadequate to establish unavoidable delay within the meaning of 37 CFR 1.137(a). Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure or mail, telegraph, telefacsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[2]

With regards to the assertion that the final Office action was never received, MPEP 711.03(c) states:

> In Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of Delgar, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of Delgar is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).
>
> To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should

---

[1] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account."

[2] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

> establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
>
> Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required. A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.
>
> The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).

Practitioner has not provided a statement that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received.

Additionally, petitioner must provide a copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received.

A copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

If petitioner can provide a showing, as described above, that the final Office action mailed on September 24, 2007, was not received, petitioner should file a renewed petition under 37 CFR 1.137(a), accompanied by such proof of nonreceipt of the final Office action mailed on September 24, 2007.

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.[3] A delay caused by an applicant's lack of knowledge or improper application of the patent statute, rules of practice or the MPEP is not rendered "unavoidable" due to: (1) the applicant's reliance upon oral advice from Office employees; or (2) the Office's failure to advise the applicant of any deficiency in sufficient time to permit the applicant to take corrective action.[4]

As the showing presented is insufficient to establish unavoidable delay within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a), the petition will be dismissed.

ALTERNATIVE VENUE

Petitioner may wish to consider filing a renewed petition under 37 CFR 1.137(b),[5] which now provides that where the delay in

---

[3] Id.

[4] 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).

[5] 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 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

reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b).

The filing of a petition under the unintentional standard cannot be intentionally delayed and therefore should be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

A copy of the form for filing a petition under 37 CFR 1.137(b) to revive an application unintentionally abandoned is enclosed herewith for petitioner's convenience.

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

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

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

By hand: Customer Service Window
Mail Stop Petition
401 Dulany Street
Alexandria, VA 22314

---

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)).

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

Encl: PTO/SB/64
Privacy Act Statement

PTO/SB/64 (08-08)
Approved for use through 09/30/2008. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Docket Number (Optional)

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.

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

3. Terminal disclaimer with disclaimer fee

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

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

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

WARNING:

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

Signature	Date
Typed or printed name	Registration Number, if applicable
Address	Telephone Number
Address	

Enclosures:
- ☐ Fee Payment
- ☐ Reply
- ☐ Terminal Disclaimer Form
- ☐ Additional sheets containing statements establishing unintentional delay
- ☐ Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

Date	Signature
	Typed or printed name of person signing certificate

Privacy Act Statement

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date : February 11, 2005

To : Director, Office of Patent Publication

From : Office of the Deputy Commissioner for Patent Examination Policy

SUBJECT : Withdrawal from Issue

COPY MAILED
FEB 14 2005
OFFICE OF PETITIONS

Applicant(s) : William J. Raddi
Application No. : 10/378,187
Filed : March 3, 2003

The above-identified application has been assigned Patent No. 6,856,524 and an issue date of February 15, 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 application is published in the OG of February 15, 2005:

> "All reference to Patent No. 6,856,524 to William Raddi of North Carolina for POWER FACTOR CORRECTED UPS WITH IMPROVED CONNECTION OF BATTERY TO NEUTRAL appearing in the Official Gazette of February 15, 2005 should be deleted since no patent was granted."

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

cc: Paul Harrison, Crystal Park 3-441 (FAX-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-910 (FAX-305-4372)
Janet Higgins, Crystal Park 3-910 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane K.Davis, P/OCS, CM1-6A07
Tamara K. Greene, PK3-910

US 101885120DP1

Creation date: 02-15-2005
Indexing Officer: SPOWELL1 - SHUNETTA POWELL
Team: 2800PrintWorkingFolder
Dossier: 10188512

Legal Date: 12-20-2004

No.	Doccode	Number of pages
1	ARTIFACT	1

Total number of pages: 1

Remarks:

Order of re-scan issued on .....

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

NEEDHAM JAMES BODDIE, II
MYERS BIGEL SIBLEY & SAJOVEC
P.O. BOX 37428
RALEIGH NC 27627

COPY MAILED

DEC 2 2 2005

OFFICE OF PETITIONS

In re Application of
ALLISON et al.
Application No. 10/378,216
Filed: March 3, 2003
Attorney Docket No. 998-924

DECISION
ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed November 16, 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 submit the issue and publication fee in a timely manner to a Notice of Allowance and Fee(s) Due, mailed April 26, 2005, which set statutory period for reply of three (3) months. Accordingly, the application became abandoned on July 27, 2005.

The issue and publication fee payments have been received. The response to the Notice To File Corrected Application Papers mailed August 1, 2005, however, was deficient. The supplemental declaration did not comply with 37 CFR 1.67. In particular, 37 CFR 1.67(a)(2) requires that "[d]eficiencies or inaccuracies relating to fewer than all of the inventor(s) or applicant(s) (§§ 1.42, 1.43 or § 1.47) may be corrected with a supplemental oath or declaration identifying the entire inventive entity but signed only by the inventor(s) or applicant(s) to whom the error or deficiency relates." The supplemental declaration received August 8, 2005 does not identify the *entire inventive entity*, only Mr. Timothy J. Allison. A proper supplemental declaration must be filed prior to granting the Petition For Revival of an Application For Patent Abandoned Unintentionally Under 37 CFR 1.37(b).

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

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450

Alexandria, VA 22313-1450

By 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
www.uspto.gov

NEEDHAM JAMES BODDIE, II
MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH NC 27627

COPY MAILED

MAR 0 6 2006

OFFICE OF PETITIONS

In re Application of
ALLISON et al.
Application No. 10/378,216
Filed: March 3, 2003
Attorney Docket No. 998-924

DECISION
ON PETITION

This is a decision on a renewed petition under 37 CFR 1.137(b), filed February 15, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance and Fee(s) Due, mailed April 26, 2005, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on July 27, 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 the issue fee, the publication fee and a supplemental declaration in compliance with 37 CFR 1.67; (2) the petition fee of $1500; and (3) the required statement of unintentional delay have been received. Accordingly, the issue fee payment and the publication fee payment are accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4787.

The application matter is referred to the Office of Patent Publication.

Denise Pothier
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : February 4, 2008

TO SPE OF : ART UNIT 3661

SUBJECT : Request for Certificate of Correction for Appl. No. 10/378225 patent no.6834218

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

3661
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HAYNES BEFFEL & WOLFELD LLP
P O BOX 366
HALF MOON BAY, CA 94019

Mail Date: 04/21/2010

Applicant	: Len L. Mizrah	: DECISION ON REQUEST FOR
Patent Number	: 7577987	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/378,226	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/03/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1276** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LAW OFFICES OF CLEMENT CHENG
17220 NEWHOPE STREET #127
FOUNTAIN VALLEY CA 92708

COPY MAILED

NOV 28 2005

OFFICE OF PETITIONS

In re Application of
Chung-Yen Chou
Application No. 10/378,230
Filed: March 3, 2003
Attorney Docket No: HUS91138-PI

ON PETITION

This is a decision on the petition, filed November 4, 2005, to revive the above-identified application under 37 CFR 1.137(b).

The petition is GRANTED.

The application became abandoned for failure to pay the issue fee on or before October 28, 2005. Receipt is acknowledged of the requisite issue/publication fee on November 4, 2005.

The application is being forwarded 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

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. 6802477
Issue Date: October 12,2004
Application No. 10378232
Filed: March 3,2003
Attorney Docket No. 31749/260512

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

This is a decision on the electronic petition, filed July 23,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of July 23,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,802,477	2004-10-12	10/378,232	2003-03-03	031749/260512

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	/Christopher B. Kelly/	Date (YYYY-MM-DD)	2009-07-23
Name	Christopher B. Kelly	Registration Number	62573

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

SAMER RAMADAN
15 FINN AVE.
NEWFIELDS, NH 03856

COPY MAILED
JUN 2 9 2004
OFFICE OF PETITIONS

In re Application of :
Samer Ramadan :
Application No. 10/378,253 : ON PETITION
Filed: March 3, 2003 :
For: STEREOSCOPIC UNIVERSAL CAMERA :
APPARATUS :

This is a decision on the petition under 37 CFR 1.137(b), filed June 14, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers (Notice) mailed May 9, 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 10, 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 (703) 306-5685.

This matter is being referred to the Office of Initial Patent Examination.

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

cc: PHILLIP E. DECKER
1 NEW HAMPSHIRE AVE
SUITE 125
PORTSMOUTH, NH 03801

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 7

HESLIN ROTHENBERG FARLEY & MESITI P.C.
5 COLUMBIA CIRCLE
ALBANY, NY 12203

COPY MAILED

DEC 0 9 2003

OFFICE OF PETITIONS

In re Application of	:
Kelly A. Buttridge et al	:
Application No. 10/378,283	: DECISION GRANTING STATUS
Filed: March 3, 2003	: UNDER 37 CFR 1.47(A)
For: METHODS AND SYSTEMS FOR CHECK	:
PROCESSING	:

This is in response to the petition under 37 CFR 1.47(a), filed September 30, 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 3624 for examination in due course.

Frances Hicks

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LAWRENCE J. FRIEDMAN
26A LEONARDO DRIVE
CLIFTON PARK, NY 12065

COPY MAILED

DEC 0 9 2003

OFFICE OF PETITIONS

In re Application of
Buttridge; Comstock; Friedman; and Gulli
Application No. 10/378,283
Filed: March 3, 2003
For: METHODS AND SYSTEMS FOR CHECK PROCESSING

Dear Mr. Friedman:

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

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

cc:
HESLIN ROTHENBERG FARLEY & MESITI P.C.
5 COLUMBIA CIRCLE
ALBANY, NY 12203

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, DC 20231

1/16/08

Patent No. :6973364
Inventor(s) : DAVID A. SCHWARTZ ET AL.
Issued : 12/6/05
Title : REMOTLEY CONNECTED BLIND CUTTING CENTER
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 item [73] and claim 10, col. 21 line 32 is printed in accordance with the record. Therefore being no fault on the Patent and Trademark Office, It has no authority to issue a certificate of correction under the provision of 1.322.

In view of the forgoing, your request in this matter, is hereby denied.
Future written correspondence concerning this matter should be filed and directed to Decisions & Certificates of Correction Branch.

Henry Randall
Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 Ext. 108

MARSHALL GERSTEIN & BORUN
233 S. WACKER DRIVE SUITE 6300
SEARS TOWER
CHICAGO, ILLINOIS 60606-6357

HR/CBN

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date : Sep. 12, 2006

Appl. No. : 10/378,329
Patent No. : 7,001,632 B2
Inventor(s) : Nauth et al.
Issued : Feb. 21, 2006
For : ANTI-LISTERIA COMPOSITIONS FOR USE IN FOOD PRODUCTS

Re: Request for Certificate of Correction

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

Respecting the alleged error(s) in Item (56) Foreign Patent Documents, after inspection of the application, it is revealed that the corrections as requested are not appropriate. Therefore, being no fault of the Patent and Trademark Office, no correction(s) is/are in order here under United States Codes (U.S.C.) 254 or 255 and the Code of Federal Regulation (C.F.R.) 1.322 or 1.323).

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

A certificate will issue for the remaining error(s) in your request.

For further consideration, submit a Reconsideration Request for Certificate of Correction.

Note: This is a general hint, which may decrease the processing time of your request:
Certificate of Corrections are issued to correct errors of minor nature, i.e. typographical, spelling or grammar errors, errors not considered "critical information"; which are correctable under the provisions of 1.322a; or applicant's errors correctable under the provisions of 1.323. *If you obtain data that clearly shows the attorney/applicant is not in error, simply include supportive documentation and associated post card receipts, along with your certificate of correction or reconsideration via postal mail, not by fax. If you do not have supportive documentation that clearly shows the attorney/applicant is not in error and verifies that the PTO is in error regarding the matter in your request - then, the appropriate fee of $100.00 with your "Certificate of Correction" or "Reconsideration Certificate of Correction" - will be necessary. Without supportive documentation, depending upon the matter in your request, it is possible - that in addition, a petition with its appropriate fee of $130.00 may be necessary, or the request may be denied. Please be advised that – "identification of the exact point of error, by reference to column and line number in the printed patent", provides needed clarity to process a request; if a certificate of correction (PTOL-1050 form) is not clear and concise, its processing could possibly be in error, delayed, or denied. Please see the MPEP for further instruction and understanding.*

Stacy Powell, Sr.
For Cecelia B. Newman, Supervisor
Decisions & Certificates of
Correction Branch
(703) 308-9390 ext 120 or (703) 305-8309

Fitch, Even, Tabin & Flannery
(Richard A. Kaba)
120 South LaSalle Street, Suite 1600
Chicago, Illinois 60603-3406

CBN/spsr

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12/7/09

TO SPE OF : ART UNIT 2427 Beliveau Scott (Spe)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/378339 Patent No.: 7614073

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

Certificates of Correction Branch
703-756-1571 _____

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

2427
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

TOWNSEND AND TOWNSEND AND CREW
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

COPY MAILED

JAN 12 2007

OFFICE OF PETITIONS

In re Application of Christine Ross Application No. 10/378,341 Filed: March 3, 2003 For: NOVEL UTILIZATION OF HEART RATE VARIABILITY IN ANIMALS	DECISION GRANTING PETITION UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed September 5, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an 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 3762.

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
www.uspto.gov

Paper No.

FISH & RICHARDSON P.C.
45 ROCKEFELLER PLAZA, SUITE 2800
NEW YORK NY 10111

COPY MAILED

MAR 2 4 2004

OFFICE OF PETITIONS
ON PETITION

In re Application of :
Kiyohisa Fujita et al :
Application No. 10/378,353 :
Filed: March 3, 2003 :
Attorney Docket No. 14815-008001 :

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

The petition is **GRANTED**.

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

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

After receipt of the file in the Office of Petitions, the application will be forwarded to Technology Center AU 2877 for processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

---

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

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. 121003

DEC 16 2003

Pepper Hamilton LLP
One Mellon Center, 50th Floor
500 Grant Street
Pittsburgh PA 15219

In re Application of:	:	
Paul W. Self	:	
Serial No.: 10/378,355	:	DECISION ON REQUEST TO WITHDRAW FROM RECORD
Filed: March 03, 2003	:	
Attorney Docket No.: **53597.1301**	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed October 17, 2003.

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

The request meets all the above stated requirements. The request was signed by James M. Singer on behalf of himself and all the attorneys of record.

The request is **APPROVED**. There are no attorneys of record at this time.

All future communications from the Office will continue to be directed to Clark A. Jablon at the below 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

cc: Clark A. Jablon
Akin, Gump, Strauss, Hauer and Feld
One Commerce Square
2005 Market Street, Suite 2200
Philadelphia, PA 19103

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

HANLEY, FLIGHT & ZIMMERMAN, LLC
150 S. WACKER DRIVE
SUITE 2100
CHICAGO IL 60606

MAILED

MAY 20 2010

OFFICE OF PETITIONS

In re Application of	:	
Mark J. Nixon, et al.	:	
Application No. 10/378,357	:	DECISION GRANTING PETITION
Filed: March 3, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 20040/59-11386	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, May 13, 2010 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on April 26, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2162 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Terri Johnson
Petitions Examiner
Office of Petitions

---

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

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

AUG 19 2004

CANTOR COLBURN LLP
55 Griffin Road South
Suite 2100
Bloomfield, CT 06002

In re Application of Nobuhiko Oda et al.:
Application No. 10/378,359 : DECISION ON
Filed: March 3, 2003 : HOLDING OF
Attorney docket No. 98-1917-C : ABANDONMENT

This is a decision on the petition filed May 20, 2004 requesting withdrawal of the holding of abandonment.

The petition is granted.

An Office action pursuant to 37 C.F.R § 1.104 was mailed on August 21, 2003, setting a three-month shortened statutory period for response to said Office action. In the apparent absence of a response, the application was held abandoned and a Notice of Abandonment was mailed on March 22, 2004.

The holding of abandonment is hereby withdrawn and the application restored to pending status in view of the fact that the review of the application file record indicates that the Office Action of August 21, 2003, was mailed to an incorrect correspondence address, while the Notice of Abandonment was mailed to the correct correspondence address. The application is not abandoned in fact since said Office action was not duly mailed to the correct correspondence address of record.

Petitioner indicates that the Office action was obtained from the private PAIR website, presumably upon receipt of the Notice of Abandonment. Further, Applicants' Response under 37 C.F.R. § 1.111 accompanies the subject Petition. Instruction is being forwarded to the technical support staff and the affected art unit of Technology Center 2800 for prompt entry of the Response and substantive consideration thereof by the examiner, respectively.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

OSHA LIANG L.L.P.
1221 MCKINNEY STREET
SUITE 2800
HOUSTON TX 77010

COPY MAILED

MAR 1 3 2006

OFFICE OF PETITIONS

In re Patent No. 6,934,134	:	DECISION ON REQUEST
Mori et al.	:	FOR RECONSIDERATION OF
Issue Date : August 23, 2005	:	PATENT TERM ADJUSTMENT
Application No. 10/378,363	:	and
Filed: March 3, 2003	:	NOTICE OF INTENT TO ISSUE
Atty Docket No. 15115.068001	:	CERTIFICATE OF CORRECTION
	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT PURSUANT TO 37 C.F.R. § 1.705(d)," filed August 23, 2005. Patentee requests that the patent term adjustment indicated in the patent (as shown in the Issue Notification) be corrected from three hundred one (301) days to three hundred fifty-one (351) days.

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

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of three hundred fifty-one (351) days.

On August 23, 2005, the above-identified application matured into U.S. Patent No. 6,934,134. The instant request for reconsideration filed August 23, 2005 was timely filed within 2 months of the date the patent issued. See § 1.705(d). The

Patent issued with a revised Patent Term Adjustment of 301 days. Patentee disputes the reduction of 50 days due to "Workflow-Drawings finished" as no papers were filed after the mailing of the notice of allowance.

A review of the PALM calculations for this application reveals that the initial determination of PTA of 351 days was reduced by 50 days for applicant's submission of drawings after the mailing of the notice of allowance. See 37 C.F.R. § 1.704(c)(10). However, a review of the application record supports a conclusion that no drawings (or any other paper, aside from the instant petition) were filed in this application after the mailing of the notice of allowance. As stated in the Notice of Allowability, the drawings filed March 3, 2003 (with the original application disclosure) were accepted by the Examiner.

In view thereof, the patent term adjustment indicated in the patent should have been three hundred fifty-one (351) days.

The $200.00 fee set forth in 37 C.F.R. § 1.18(e) has been charged to Deposit Account No. 50-0591, as authorized. No additional fees are required.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **THREE HUNDRED FIFTY-ONE (351)** 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

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

STEPHEN B. DAVIS
BRISTOL-MYERS SQUIBB COMPANY
PATENT DEPARTMENT
P O BOX 4000
PRINCETON, NJ 08543-4000

COPY MAILED

NOV 1 8 2004

OFFICE OF PETITIONS

In re Application of	:
Jagabandhu Das et al	:
Application No. 10/378,373	: DECISION GRANTING PETITION
Filed: March 3, 2003	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. QA204 CNT 1	:

This is a decision on the petition, filed November 17, 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 4, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 1626 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

IBM CORPORATION (VE)
C/O VOLEL EMILE
P. O. BOX 162485
AUSTIN TX 78716

COPY MAILED

AUG 0 1 2008

OFFICE OF PETITIONS

In re Application of	:	
Atkin, Steven Edward	:	
Application No. 10/378,379	:	ON PETITION
Filed: March 3, 2003	:	
Attorney Docket No. AUS920020740US1	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed July 15, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination and 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 2175 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Liana Walsh
Petitions Examiner
Office of Petitions

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

PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

COPY MAILED

NOV 18 2005

OFFICE OF PETITIONS

In re Application of	:	
Benjamin Wiegand	:	
Application No. 10/378,384	:	ON PETITION
Filed: March 3, 2003	:	
Attorney Docket No. JBP-5003	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 3, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement mailed February 11, 2005 which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned after midnight March 11, 2005.

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

The application file is being referred to Technology Center Art Unit 1655.

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

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CESARI AND MCKENNA, LLP
88 BLACK FALCON AVENUE
BOSTON MA 02210

COPY MAILED

JAN 23 2007

OFFICE OF PETITIONS

In re Application of
Richard O. Larson et al.
Application No. 10/378,400
Filed: March 3, 2003
Attorney Docket Number: 112056-0051

: DECISION GRANTING PETITION

This is a decision on the petition filed December 29, 2006 to revive the above identified application under 37 CFR 1.137(a) or in the alternative under 37 CFR 1.137(b).

The petition under 37 CFR 1.137(a) is **GRANTED**.
The petition under 37 CFR 1.137(b) is **DISMISSED** as involving moot issues.

This application became abandoned for failure to timely respond to an Office Action mailed December 15, 2005 which set a two month period for response. No response having been filed or extension of time requested, this application became abandoned February 16, 2006. Accordingly, a Notice of Abandonment was mailed September 6, 2006.

The file record discloses that the Office Action was mailed March 20, 2006 to the address of record. However, petitioner contends that it was not received and that the Office Action was returned to the USPTO.

A review of the USPTO files reveal that the Office Action was in fact returned to the USPTO by the United States Postal Service on December 27, 2005 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 Office Action was never received.

In view thereof, petitioner's deposit account no. 03-1237 will be charged in the amount of $500 for the petition under 37 CFR 1.137(a). It will not be necessary to treat this petition alternatively under 37 CFR 1.137(b), the unintentional standard and thus the petition fee in the amount of $1500 submitted with the petition will be credited to deposit account no. 03-1237.

Since the response to the Office Action has been provided with the instant petition, this matter is being referred to Technology Center 2185 for consideration and treatment of the amendment filed December 29, 2006.

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
Alexandria, VA 22313-1450
www.uspto.gov

COPY MAILED

MAY 23 2007

OFFICE OF PETITIONS

General Motors Corporation
Mail Code 482-C23-B21
P.O. Box 300
Detroit MI 48265-3000

In re Application of: Gilbert
Application No. 10/378,421
Filed: March 3, 2003
Attorney Dck't. No. GP-301849

: On Petition

This is a decision on the petition filed February 23, 2007, requesting under 37 CFR 1.182 to "have the examiner's decision that the declaration filed under 37 CFR 1.131 is not effective" be overturned.

The petition under 37 CFR 1.182 is dismissed.

Petitioner complains that the examiner has refused to accept the showings in the declaration filed under 37 CFR 1.131 and withdraw the rejection based upon the Herd *et al.* reference.

It is noted in passing that the outstanding final rejection is under appeal to the Board of Appeals and Interferences.

Petitioner is advised that the question as to whether the Rule 131 declaration is sufficient to antedate the Herd *et al.* reference, and thus overcome the outstanding rejection, is not a matter that can properly be addressed on petition. See MPEP § 715.08:

> The question of sufficiency of affidavits or declarations under 37 CFR 1.131 should be reviewed and decided by a primary examiner.
> Review of questions of formal sufficiency and propriety are by petition. Such petitions are answered by the Technology Center Directors (MPEP § 1002.02(c)).
> Review on the merits of a 37 CFR 1.131 affidavit or declaration is by appeal to the Board of Patent Appeals and Interferences

Petitioner does not here seek a review–or excusal-- of the formal sufficiency (e.g., contains an averment of acts done in this country *vel non*) or propriety (*e.g.*, whether the reference sought to be antedated claims the contested subject matter) of the declaration; rather petitioner wishes, on petition, to have the examiner's decision on the sufficiency of the showing reviewed such that the determination is made, on petition, that the rejection has been overcome *vel non*.

Petitioner is reminded that it is the long-established policy of the Patent and Trademark Office to maintain the line of demarcation between matters which are appealable, and those which are

petitionable. See 37 CFR 1.181(a); MPEP 1201. Petitioner's arguments are, in essence, that the maintenance of the rejection is facially untenable in light of the contested declaration. Nevertheless, as such arguments go more to the merits of the rejection, as opposed to the *formal* sufficiency and propriety of the declaration, they will not be further addressed on petition. See Boundy v. U.S. Patent & Trademark Office, 73 USPQ2d 1468 (DC Eva 2004), *appeal dismissed*, 2004 U.S. App. LEXIS 26384 (Fed. Cir. 2004). Any review of the continued rejection of which petitioner complains (and its underlying reasoning) is limited to a merits appeal as provided by 35 U.S.C. § 134, and not by way of petition. Id. It is well settled that the Director will not, on petition, usurp the functions or impinge upon the jurisdiction of the BPAI. See In re Dickerson, 299 F.2d 954, 958, 133 USPQ 39, 43 (CCPA 1962); Baylev's Restaurant v. Bailev's of Boston. Inc., 170 USPQ 43, 44 (Comm'r Pat. 1971).

Where, as here, the examiner maintains a rejection on the ground that a a given Rule 131 declaration was insufficient to prove a date of invention prior to the effective date of the reference relied upon to in that rejection, then petitioner has an avenue for relief by appealing from the rejection(s) based on the reference, and as noted above, petitioner has already begun that very appellate process by which the examiner's ruling on the sufficiency *vel non* of the showing in the Rule 131 declaration may be reviewed, first by the BPAI, and then by the courts. See e.g., In re Zletz, 893 F2d 319; 13 USPQ2d 1320 (Fed. Cir. 1989)(judicial review of merits of rejection maintained in face of a Rule 131 declaration); In re Mulder, 716 F.2d 1542, 219 USPQ 189 (Fed. Cir, 1983)(same); In re Searles, 422 F.2d 431, 435, 164 USPQ 623, 626 (CCPA 1970)(court noting where the issue, as here, additionally and necessarily requires the exercise of technical skill and legal judgment in order to evaluate the facts presented, the issue is properly decided on the merits, and is properly reviewed on appeal, not petition.)

The PTO has no authority to make rules/rulings that are inconsistent with law (35 USC § 2(b)(2)). 37 CFR 1.182 applies only when no other rule speaks to the question and is not itself a mechanism for avoiding the established rules and procedures. See Hicks v. Costello, 1903 Dec. Comm'r Pat. 123, 125 (1903). Rather, the appropriateness of the continued rejection of the claims over Herd *et al.* notwithstanding the Rule 131 declaration must be reviewed by way of appeal under 35 U.S.C. § 134 and 37 CFR 41.31 *et seq.*, and that appellate pathway may not be evaded or avoided by way of petition. It is brought to petitioners' attention that a standard principle of statutory construction is that, absent legislative intent to the contrary, when a statute provides a specific remedy for a specific situation, the statute is deemed to exclude other remedies for such situation. See National R.R. Passenger Corp. v. National Ass'n of R.R. Passengers, 414 U.S. 453, 458 (1974). Since 35 USC § 134 (and its promulgating regulations 41.31 *et seq.*) provides petitioner with a specific remedy for seeking review of the continued rejection based on Herd *et al.*, it would be inappropriate to fashion yet another remedy under 37 CFR 1.182.

This file is being referenced to the Technology Center.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3217.

Brian Hearn
Petitions Examiner

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
www.uspto.go

Paper No. 05

Charles S. Vann
1425 Drake Avenue
Burlingame, CA 94010

JUN - 4 2003

In re Application of:	:	
Charles S. Vann	:	DECISION ON PETITION
Application No. 10/378,422	:	TO MAKE SPECIAL
Filed: March 03, 2003	:	
For: MAGNETICALLY LEVITATED WINDMILL	:	

This is a decision on the petition filed on March 03, 2003, under 37 C.F.R. § 1.102(c) to make the above-identified application special under the accelerated examination procedure set forth in the Manual of Patent Examining Procedure (M.P.E.P.), Section 708.02, Item V: Environmental Quality and Item VI: ENERGY.

The petitions are **dismissed.**

A grantable petition under 37 C.F.R. § 1.102(c), and in accordance with M.P.E.P. § 708.02, Item V, for inventions which materially enhance the quality of the environment of mankind by contributing to the restoration or maintenance of the basic life-sustaining natural elements, i.e., air, water, and soil, must be accompanied by statements under 37 C.F.R. § 1.102 by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the invention contributes to the restoration or maintenance of one of these life-sustaining elements. No fee is required for this petition.

A grantable petition under 37 C.F.R. § 1.102(c), and in accordance with M.P.E.P. § 708.02, Item VI, for inventions which materially contribute to (A) the discovery or development of energy resources, or (B) the more efficient utilization and conservation of energy resources must be accompanied by statements under 37 C.F.R. § 1.102 by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the invention contributes to category (A) or (B) set forth above. Examples of inventions in category (A) would be developments in fossil fuels (natural gas, coal, and petroleum), hydrogen fuel technologies, nuclear energy, solar energy, etc. Category (B) would include invention relating to the reduction of energy consumption systems, industrial equipment, household appliances etc. No fee is required for this petition.

Petitioner asserts that the invention is a windmill that is more power-efficient than existing windmills. The petitioner further provides the benefits of the windmill being more power efficient. However, the statement does not suggest how the windmill is more power efficient than other windmills. As a result, the petitioner has not provided a statement under 37 C.F.R. § 1.102 that explains how the invention contributes to the restoration or maintenance of the above defined life-sustaining elements. Therefore, there is not a sufficient showing to accord the application special status pursuant to M.P.E.P. § 708.02, Item V.

The petitioner has not provided a statement under 37 C.F.R. § 1.102 that explains how the invention contributes to inventions which materially contribute to (A) the discovery or development of energy resources, or (B) the more efficient utilization and conservation of energy resources. Specifically, the statement addresses the cost competitiveness prospects of the invention. However, the specifics regarding the increase in power efficiency are not mentioned. Therefore, there is not a sufficient showing to accord the application special status pursuant to M.P.E.P. § 708.02, Item VI.

For the above stated reasons, the petition is inadequate to qualify the application for special status under 37 CFR 1.102(c) and pursuant to M.P.E.P. § 708.02, Item V and/or Item VI.

In view of the above, the petitions are **dismissed.**

Should petitioner desire reconsideration, petitioner should supplement this petition by a statement providing the information as outlined above. No further petition fee is required.

Any request for reconsideration must be filed within **TWO MONTHS** of the date of this decision.

Inquiries regarding this decision should be directed to Lissi Mojica Marquis at (703) 308-2260.

Lissi Mojica Marquis, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

Charles S. Vann
1425 Drake Avenue
Burlingame, CA 94010
(650) 375 1136 (home)

Assistant Commissioner for Patents
Washington, DC

March 1, 2003

Dear Sir or Madam:

I am requesting a petition to make special the attached patent application.

The Manual of Patent Examining Procedures states on page 700-69 that a patent can be advanced in processing if it meets any one of twelve conditions. I believe that the attached patent application meets the conditions of (V.) enhancing environmental quality and (VI.) promoting more efficient use and conservation of energy resources.

The invention is a windmill that is more power-efficient than existing windmills, making windmill energy much more cost competitive. As windmills become more cost-competitive, they will replace more environmentally-damaging power sources such as coal and oil plants. Since windmills are renewable and pollutant-free, over time the environment will be improved while our coal and oil reserves are conserved for other uses.

I hope that you will expedite this patent application.

Sincerely,

Charles S. Vann

Charles S. Vann

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW 04-05

GLENN L. WEBB
P.O BOX 951
CONIFER CO 80433

COPY MAILED

APR 15 2005

OFFICE OF PETITIONS

In re Application of	:	
Joseph et al.	:	
Application No. 10/378,460	:	ON PETITION
Filed: 3 March, 2003	:	
Atty Docket No. etracks2	:	

This is a decision on the petition under 37 CFR 1.137(b),[1] filed on 14 December, 2004, to revive the above-identified application.

The petition is **DISMISSED AS MOOT**.

A review of the record reveals that the holding of abandonment in this application was withdrawn on 3 March, 2005. As such, the application is not abandoned and no petition to revive is necessary.

---

[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)).

Best Available Copy

Therefore, the petition will be dismissed as moot, and the petition fee will be refunded by Treasury Check.

The application is being referred to Technology Center Art Unit 2875 for further processing.

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

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Best Available Copy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 3

McLANE, GRAF, RAULERSON & MIDDLETON, PA
900 Elm Street, P.O. Box 326
Manchester, New Hampshire 03105-0326

AUG 29 2003

In re Application of :
Robert E. McMillan :
Application No. 10/378,474 :
Filed: March 3, 2003 :
For: SHORT TERM INDENTING :
MEMORY DEVICE AND METHOD :

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition under 37 C.F.R. § 1.102, filed July 15, 2003, via facsimile transmission, to make the above-identified application special. The petition is a resubmission of an earlier filed petition as evidence by an accompanying postcard receipt date stamped April 14, 2003 by the USPTO.

Petitioner requests that the above-identified application be made special under the accelerated examination procedure set forth in Manual of Patent Examining Procedure (M.P.E.P.) § 708.02, Section IV: Applicant's Age.

A grantable petition to make special under 37 C.F.R. § 1.102 and in accordance with M.P.E.P. § 708.02, Section IV, must include a showing, as by a birth certificate or the applicant's affidavit or declaration, that the applicant is sixty five (65) years of age or more. No fee is required for this petition.

The petition includes a declaration by the inventor, Dr. Robert E. McMillan asserting that he is over sixty five (65) years of age.

Accordingly, the petition is GRANTED.

The application is being forwarded to the examiner for expedited prosecution.

If the examiner can make this application special without prejudice to any possible interfering applications, and he/she should make a rigid search for such, he/she is authorized to do so for the

next action. Should the application be rejected, the application will not be considered special for the subsequent action unless the applicant promptly makes a bona fide effort to place the application in condition for allowance, even if it is necessary to have an interview with the examiner to accomplish this purpose.

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

Should an appeal be taken in this application or should this application becomes involved in an interference, consideration of the appeal and the interference will be expedited by all Patent and Trademark Office officials concerned, contingent likewise upon diligent prosecution by the applicant.

After allowance, this application will be given priority for printing. See M.P.E.P. § 1309.

The petition is granted to the extent indicated.

Hien H. Phan, 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
www.uspto.gov
DIW May-06

DARBY & DARBY P.C.
P. O. BOX 5257
NEW YORK NY 10150-5257

COPY MAILED
MAY 0 4 2006
OFFICE OF PETITIONS

In re Application of	:	
Kimura et al.	:	
Application No. 10/378,497	:	DECISION ON PETITION
Filed: 27 July, 2005	:	
Atty Docket No. 9852/0M625	:	

This is a decision on the petition filed on 27 July, 2005, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 6 November, 2004, for failure to timely respond to the non-final Office action mailed on 5 August, 2004, which set a three (3) month shortened statutory period for reply. No extensions of time in accordance with 37 CFR 1.136(a) were obtained. An untimely amendment was filed on 6

---

[1] Effective December 1, 1+997, 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)).

December, 2004. Notice of Abandonment was mailed on 19 July, 2005.

The amendment and other papers filed on 6 December, 2004, will be treated as the required reply.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply.[2] The three-month extension request filed on 27 July, 2005, was submitted more than five (5) months after the end of the period for reply to the Office communication mailed on 6 August, 2004, and therefore is unnecessary. The extension of time fee paid on 27 July, 2005, will be credited to counsel's deposit account.

This application is being referred to Technology Center Art Unit 3722 for further processing.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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

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

HAUGEN LAW FIRM
SUITE 1130 - TCF TOWER
121 SOUTH EIGHTH STREET
MINNEAPOLIS MN 55402

COPY MAILED

JUN 0 9 2003

OFFICE OF PETITIONS

In re Application of
Wada, et al.
Application No. 10/378,498
Filed: March 2, 2003
Attorney Docket No. 2003-1702.DIV
For: WATER-ABSORBING AGENT AND ITS PRODUCTION PROCESS AND USE

DECISION GRANTING PETITION

This is a decision on the petition under 37 CFR 1.10(c), filed May 28, 2003 (certificate of facsimile transmission date May 22, 2003), requesting that the above-identified application be accorded a filing date of March 2, 2003 rather than the presently accorded filing date of March 3, 2003.

Petitioners request the earlier filing date on the basis that the application was deposited in Express Mail service of the United States Postal Service (USPS) on March 2, 2003, pursuant to the requirements of 37 CFR 1.10. The petition is accompanied by a copy of Express Mail label no. EV156521597US showing a "date-in" of 03/2/03 **and** a USPS date stamp of March 2, 2003. The same Express Mail label number is listed on the ORIGINAL UTILITY PATENT APPLICATION TRANSMITTAL found in the application file and resubmitted with the instant petition.

The evidence presented establishes that the Express Mail package associated with Express Mail label no. EV156521597US was deposited with the USPS on March 2, 2003.

Accordingly, the petition is granted.

No fee has been or will be charged in connection with this petition.

The application is being returned to the Office of Initial Patent Examination for correction of the filing date to March 2, 2003.

Any inquiries related to this decision should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAIL

JAN 2 6 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Paper No.

James David Jacobs, Esq.
BAKER & MCKENZIE
805 Third Avenue
New York, NY 10022

In re Application of:
Sreedhara Nanayanaswamy
Application No. 10/378,503
Filed: March 3, 2003
For: UNIVERSAL DEPLOYMENT TOOL

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed November 23, 2004.

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

The request filed November 23, 2004 meets all the requirements. Accordingly the request is **GRANTED**.

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

James R. Matthews

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

cc: Richard F. Jaworski, Esq.
COOPER & DUNHAM LLP
1185 Avenue of the Americas
New York, NY 10036

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.

Wayne M. Kennard
28 Partridge Road
Lexington, MA 02421

COPY MAILED

FEB 2 1 2006

OFFICE OF PETITIONS

In re Application of	:	
Wayne Kennard	:	DECISION ON PETITION
Application No. 10/378,508	:	
Filed: March 2, 2003	:	
Atty Docket No. Kenn-2	:	

This is a decision on the petition filed January 30, 2006, to revive the above-identified application under 37 CFR 1.137(b).

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

The above-identified application became abandoned for failure to timely file a proper response to the restriction requirement mailed June 28, 2005. This Office action set a shortened statutory period for reply of one (1) month from the mailing date of the action. No extensions of time under 37 C.F.R. § 1.136(a) were obtained and no response received. Accordingly, the above-identified application became abandoned at midnight on July 28, 2005. A courtesy Notice of Abandonment was mailed on January 25, 2006.

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

Technology Center AU 3654 has been advised of this decision. The application file is thereby forwarded to Technology Center 3654 for consideration by the examiner of the response to the restriction requirement filed January 30, 2006.

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
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

LOWENSTEIN SANDLER
65 LIVINGSTON AVENUE
ROSELAND, NJ 07068

COPY MAILED

MAY 0 9 2007

OFFICE OF PETITIONS

In re Patent No. 7,112,362	: DECISION GRANTING PETITION
Issue Date: September 26, 2006	: UNDER 37 CFR 1.78(a)(3) AND
Application No. 10/378,510	: REQUEST FOR CERTIFICATE OF
Filed: March 3, 2003	: CORRECTION
Attorney Docket No. 13558-11	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed May 7, 2007, seeking to add a claim for priority under 35 U.S.C. § 120 to nonprovisional Application No. 09/442,229, filed November 17, 1999, by way of a certificate of correction.

The petition is **granted**.

A review of the file record fails to disclose that a claim for the benefit of priority to the above-noted, prior-filed nonprovisional application was made within the time period set forth in 37 CFR 1.78(a)(2)(ii) and further failed to include a proper reference to the prior-filed application as required by 37 CFR 1.78(a)(2)(i) and 1.78(a)(2)(iii).

The instant application was filed March 3, 2003. Therefore, since this application was filed after November 29, 2000, a petition under 37 CFR 1.78(a)(3), along with submission of a Certificate of Correction, is the appropriate avenue of relief to accept a late claim for the benefit of priority to a prior-filed nonprovisional application after issuance of the application into a patent. *See* MPEP 1481.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) must be accompanied by:

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

As the petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the above-noted, prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

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

Petitioner is advised that the granting of this petition and the mailing of a corrected Filing Receipt should not be viewed as an indication that a determination has been made that this application is entitled to claim benefit of the prior-filed application. **A determination that applicant is entitled to claim benefit of the prior-filed application will be made by the Examiner prior to the mailing of a certificate of correction.**

As authorized, the $1,370 surcharge fee, as well as the $100 certificate of correction fee, will be charged to petitioner's Deposit Account No. 50-1358.

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

This application is being referred to the Certificates of Correction Branch for processing the request for a certificate of correction in accordance with this decision on the petition under 37 CFR 1.78(a)(3).

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/378,510	03/03/2003	1774	675	13558-	1	1

CONFIRMATION NO. 6602

CORRECTED FILING RECEIPT

OC000000023775737

GLEN E. BOOKS, ESQ.
LOWENSTEIN SANDLER PC
65 LIVINGSTON AVENUE
ROSELAND, NJ 07068

Date Mailed: 05/09/2007

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)

Greg E. Blonder, Summit, NJ;

Power of Attorney:

Glen Books--24950

Domestic Priority data as claimed by applicant

This application is a DIV of 09/934,744 08/22/2001 ABN
which is a DIV of 09/442,229 11/17/1999 ABN

Foreign Applications

If Required, Foreign Filing License Granted: 04/29/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/378,510

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

THERMALLY MOVABLE PLASTIC DEVICES AND TOYS

Preliminary Class

428

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

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

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

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 3

PATENT DEPARTMENT
LARKIN, HOFFMAN, DALY & LINDGREN, LTD.
1500 WELLS FARGO PLAZA
7900 XERXES AVENUE SOUTH
BLOOMINGTON, MN 55431

COPY MAILED

MAY 19 2003

OFFICE OF PETITIONS

In re Application of Nowak, et al. Application No. 10/378,526 Filed: March 3, 2003 Attorney Docket No.: 27,503-13 For: PRECURE CONSOLIDATOR	:	DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

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

The petition is **DISMISSED**.

Rule 47 applicant is given ONE MONTH 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 March 3, 2003 without a fully executed oath or declaration and naming David Nowak and Stanley Schroeder as joint inventors and the instant petition under Rule 47.

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

The instant petition lacks item (1) set forth above. Petitioner has failed to establish that the non-signing inventor cannot be reached. The declaration of Michael A. Essien indicates that a declaration was sent via Federal Express to the inventor at the inventor's last known address and that the package containing the declaration was returned. The return package indicated "No sign of life; Gone for the Winter." Declarant further states that telephone calls to the inventor's last known phone number went unanswered.

Petitioner has failed to establish that the inventor cannot be reached, petitioner has merely indicated that the non-signing inventor is believed to be "gone for the winter".

Application No. 10/378,526

Applicant's attention is directed to MPEP 409.03(d) which states "[t]he fact that a non-signing inventor is on vacation or out of town and is therefore temporarily unavailable to sign the declaration is <u>not</u> an acceptable reason for filing under 37 CFR 1.47." This petition is accordingly dismissed as inappropriate.

Any renewed petition must be supported by evidence which sufficiently establishes that despite diligent effort, the non-signing inventor cannot be located. A statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a *diligent effort* was made to locate the inventor. The statement of facts must be signed, where at all possible, by a person having *firsthand knowledge* of the facts recited therein. Statements based on hearsay, will not normally be accepted. *See*, MPEP 409.03(d).

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

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

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

Alesia M. Brown
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
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 5

COPY MAILED

JUN 1 6 2003

OFFICE OF PETITIONS

PATENT DEPARTMENT
LARKIN, HOFFMAN, DALY & LINDGREN, LTD.
1500 WELLS FARGO PLAZA
7900 XERXES AVENUE SOUTH
BLOOMINGTON, MN 55431

In re Application of Nowak, et al. Application No. 10/378,526 Filed: March 3, 2003 Attorney Docket No.: 27,503-13 For: PRECURE CONSOLIDATOR	DECISION NOTING JOINDER OF INVENTOR AND PETITION UNDER 37 CFR 1.47(a) MOOT

This is in response to the renewed petition under 37 CFR 1.47(a), filed June 5, 2003.

In view of the joinder of the inventor, further consideration under 37 CFR 1.47(a) is not necessary and the 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).

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) 305-0310.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JJGJR.: 06-04

Paper No: 6

COPY MAILED
JUN 2 9 2004
OFFICE OF PETITIONS

SAMER RAMADAN
15 FINN AVE.
NEWFIELDS NH 03856

In re Application of
Ramadan
Application No. 10/378,531
Filing Date: 3 March, 2003
Attorney Docket No. M3D.US.4

DECISION ON PETITION

This is a decision on the petition filed on 14 June, 2004, 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 Notice to File Corrected Application Papers (for corrected claims and abstract) mailed on 24 April, 2003, with reply due absent an extension of time on or before 24 June, 2003;
- the application went abandoned by operation of law after midnight 24 June, 2003;
- the Office mailed a Notice of Abandonment on 14 June, 2004;

- with the instant petition and fee and statement of unintentional delay, Petitioner filed corrected abstract and claims as the required reply.

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[1]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[2]

Delays in responding properly raise the question whether delays are unavoidable.[3] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[4] 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]))

The requirements for a grantable petition under 37 C.F.R. §1.137(b) are the petition and fee, a

---

[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.

showing of unintentional delay, a proper reply, and a terminal disclaimer where appropriate. Here the terminal disclaimer is unnecessary. Petitioner has filed the petition, fee and reply, and made the statement of unintentional delay.

CONCLUSION

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

The file is The instant application is forwarded to OIPE for further processing in due course.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JJGJr: 10-03

Paper No: 4

FOLEY HOAG LLP
PATENT GROUP
WORLD TRADE CENTER WEST
155 SEAPORT BLVD.
BOSTON, MA 02110

COPY MAILED
OCT 3 1 2003
OFFICE OF PETITIONS

In re Application of	:	
Yuan	:	
Application No. 10/378,542	:	DECISION ON PETITION
Filed: 3 March, 2003	:	
Attorney Docket No.: AQL 703.01 (22478-70301)	:	

This is a decision on the petition filed on 25 August, 2003, 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 3 March, 2003, instead of the presently accorded filing date of 4 March, 2003.

The petition is **GRANTED**.

BACKGROUND AND ANALYSIS

The record reflects that:

- the instant application was received on 4 March, 2003, and given a filing date of 4 March, 2003; and
- Petitioner Jason C. Gish (Reg. No. 42,581) submits his petition and statement, and recites that attachments/enclosures include a copy of the US Postal Service (USPS) Express Mail Label No. EV176457059US;
- while that USPS Express Mail label contains no hand-written "date in," it does carry a USPS date stamp of "MAR 3 2003 FORT POINT STA BOSTON MA 02205."

CONCLUSION

Therefore, as to the instant nonprovisional application, Application No. 10/378,542, the Office of Initial Patent Examination is specifically instructed to:

- assign a filing date of 3 March, 2003; and
- issue a filing receipt specifying the filing date as that of 3 March, 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
WWW.USPTO.GOV

Paper No. 9

ALPHONSO A. COLLINS
DARBY & DARBY PC
P O BOX 5257
NEW YORK, NY 10150-5257

COPY MAILED

JAN 13 2004

OFFICE OF PETITIONS

In re Application of	:
David J. Earl et al	:DECISION DISMISSING PETITION
Application No. 10/378,543	:FOR SUSPENSION OF RULE
Filed: March 3, 2003	:
Attorney Docket No. 3002/1K166US1	:

This is a decision on the petition filed on April 30, 2003, which is being treated as a petition requesting that the requirement of 37 CFR 1.213(a)(1) be waived or suspended pursuant to 37 CFR 1.183 in order to file a nonpublication request after the filing of the above-identified application. The petition was accompanied by a nonpublication request and the petition fee.

The petition is dismissed.

37 CFR 1.183 provides that, in an extraordinary situation, when justice requires, any requirement of the regulations which is not a requirement of the statutes may be suspended or waived by the Commissioner. 35 U.S.C. § 122(b) requires the United States Patent and Trademark Office (USPTO) to publish utility and plant applications filed on or after November 29, 2000, unless applicant makes a nonpublication request upon filing. The requirement that a nonpublication request must be made upon filing of the application is set forth in the statute. See 35 U.S.C. § 122(b)(2)(B)(i). Therefore, the USPTO does not have the authority to waive this requirement. Accordingly, the nonpublication request filed with the petition will not be recognized. The projected publication date of this application will be determined upon completion of the pre-examination processing of this application.

If applicant desires to avoid publication of the above-identified application, he may file a continuation application under 37 CFR 1.53(b) claiming benefit to the above-identified application under 35 U.S.C. § 120 with a nonpublication request and,

thereafter, abandon the above-identified application by filing a petition under 37 CFR 1.138(c) for express abandonment to avoid publication, including a petition fee ($130.00). This petition should be mailed to Box PGPUB-ABD or fax to the Pre-Grant Publication Division at (703) 305-8568.

This application is being forwarded to the Office of Initial Patent Examination for pre-examination processing and for issuance of a Filing Receipt which sets forth the projected publication date of this application.

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

Frances Hicks

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED

AUG 2 4 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Lennart Pitzele :
Application No. 10/378,549 :
Filed: March 3, 2003 :
Attorney Docket No. 1465.2001-009 :

This is a decision on the petition, filed August 9, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on July 22, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 2838 for further processing of the request for continued examination under 37 CFR 1.114 filed August 9, 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
www.uspto.gov

NOV 24 2003

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

#7

In re Application of	:	
Van L. Phillips	:	
Serial No.: 10/378,564	:	DECISION ON PETITION
Filed: March 3, 2003	:	
For: Prosthetic Foot Having Curved Ankle Section	:	

This is in response to applicants' petition filed April 8, 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, 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
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

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

COPY MAILED

OCT 0 6 2004

OFFICE OF PETITIONS

In re Application of
Van L. Phillips
Application No. 10/378,564
Filed: March 3, 2003
Attorney Docket No. FLEXFT.010C6
Title: PROSTHETIC FOOT HAVING CURVED ANKLE SECTION

DECISION ON PETITION
UNDER 37 C.F.R. §1.182

This is in response to the petition filed June 15, 2004, under 37 C.F.R. §1.182, requesting the withdrawal of a terminal disclaimer.

On May 14, 2004, Petitioner submitted a terminal disclaimer to overcome a nonstatutory double patenting rejection over U.S. Patent Numbers 6,527,811; 6,406,500; 5,976,191; 5,593,457; 5,486,209; 5,181,932; 5,776,205; 5,217,500, and; 5,464,441 in a non-final Office action mailed January 14, 2004. Petitioner has since noted that 6,406,500 expired on July 11, 2003. As such, a substitute terminal disclaimer has been submitted, which deletes the reference to this patent.

With the instant petition, the petition fee has been charged to Petitioner's Deposit Account. The Examiner has reviewed petitioner's request, and has determined that the previously filed terminal disclaimer should be withdrawn and replaced with the terminal disclaimer submitted concurrently with this petition.

As such, the petition is **GRANTED**. The terminal disclaimer submitted on May 14, 2004 is hereby **WITHDRAWN**.

The application file is being forwarded to Technology Center 3700 for further processing.

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 7

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

COPY MAILED

DEC 01 2003

OFFICE OF PETITIONS

In re Application of
Gorsuch, Regnier, Hoffman, Nelson & Proctor
Application No. 10/378,565
Filed: March 3, 2003
Attorney Docket No. 2479.2181-001
For: INTELLIGENT INTERFACE FOR CONTROLLING AN ADAPTIVE ANTENNA ARRAY

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

This is in response to the petition under 37 CFR 1.47(a), filed October 3, 2003 (certificate of mailing date October 1, 2003).

The petition is granted.

Petitioners have shown that the non-signing inventor, James A. Proctor, Jr., has constructively refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the petition signed by Attorney Mark B. Solomon and accompanying exhibits establish that the inventor was mailed the application papers, including the specification, claims and drawings, but failed to respond to the request that he sign the declaration. Petitioners have submitted a declaration in compliance with 37 CFR 1.63 and 1.64.

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

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

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

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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

JAMES A. PROCTOR, JR.
258 SEA VIEW STREET
MELBOURNE BEACH FL 32951

COPY MAILED

DEC 0 1 2003

OFFICE OF PETITIONS

LETTER

In re Application of
Gorsuch, Regnier, Hoffman, Nelson & Proctor
Application No. 10/378,565
Filed: March 3, 2003
Attorney Docket No. 2479.2181-001
For: INTELLIGENT INTERFACE FOR CONTROLLING AN ADAPTIVE ANTENNA ARRAY

Dear Mr. Proctor:

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

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

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

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

E Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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

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

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

COPY MAILED

JAN 16 2007

OFFICE OF PETITIONS

In re Application of	:	
GORSUCH, et al.	:	
Application No. 10/378,565	:	DECISION ON PETITION
Filed: March 3, 2003	:	TO WITHDRAW
Attorney Docket No. 2479.2181-001	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 22, 2006.

The request is **NOT APPROVED**.

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

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

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being

submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **VOLPE AND KOEING PC**
30 SOUTH 17TH STREET, SUITE 1600
UNITED PLAZA
PHILADELPHIA, PA 19103

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

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

COPY MAILED

AUG 01 2007

OFFICE OF PETITIONS

In re Application of :
GORSUCH, et al. :
Application No. 10/378,565 :
Filed: March 3, 2003 :
Attorney Docket No. 2479.2181-001 :

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 9, 2007.

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

A review of the file record indicates that the power of attorney to HAMILTON BROOK SMITH & REYNOLDS PC has been revoked by the assignee of the patent application on February 8, 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: **VOLPE AND KOENIG, PC**
30 SOUTH 17TH STREET, SUITE 1600
UNITED PLAZA
PHILADELPHIA, PA 19103

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.g

LAW OFFICES OF ALBERT WAI-KIT CHAN, PLLC
141-07 20TH AVENUE, SUITE 604
WORLD PLAZA
WHITESTONE NY 11357

COPY MAILED

DEC 1 1 2008

OFFICE OF PETITIONS

In re Application of	:	
Gene R. Diresta et al.	:	
Application No. 10/378,585	:	DECISION ON PETITION
Filed: March 3, 2003	:	
Attorney Docket No. #744-A-US	:	

This is a decision on the Request for Expedited Issuance of Certificate of Correction, filed October 22, 2008, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee's name on the Fee(s) Transmittal form PTOL-85(b) by way of a certificate of correction in the patent that has issued from the above-identified application.

The request is **GRANTED**.

Petitioner states that the correct assignee's name is Sloan-Kettering Institute for Cancer Research and that the incorrect assignee's name was included on the Fee(s) Transmittal form PTOL-85(b) at the time of payment of the issue fee. Accordingly, petitioner requests that a certificate of correction be issued to reflect the correct assignee on the front page of the Letters Patent in the patent that has issued from the application.

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

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

> assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

The petition was accompanied by a certificate of correction (and fee) as required by 3.81(b). Further, Office assignment records reflect that Sloan-Kettering Institute for Cancer Research 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 be processed.

Inquiries concerning this decision should be directed to JoAnne Burke at (571) 272-4584. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

This matter is being referred to the Certificates of Correction Branch for processing of a certificate of correction in accordance with this decision.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

Dkt. #744-A-US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants	:	DIRESTA et al.
U.S. Patent No.	:	7,422,893 B2
U.S. Serial No.	:	10/378,585
Issued	:	September 9, 2008
Examiner	:	Susan Emily Fernandez
Art Unit	:	1651
For	:	APPARATUS FOR GROWING CELLS UNDER VARIABLE HYDROSTATIC PRESSURES

Law Offices of Albert Wai-Kit Chan, PLLC
World Plaza, Suite 604
141-07 20th Avenue
Whitestone, New York 11357

October 22, 2008

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

Sir/Madam:

REQUEST FOR EXPEDITED ISSUANCE OF CERTIFICATE OF CORRECTION UNDER 37 CFR 1.323

Applicants hereby submit a request for a Certificate of Correction in connection with the above-identified issued patent. Upon review of the issued patent, Applicants noticed that the Assignee name was listed incorrectly. Form PTO/SB/44 explains the error and is attached hereto as **Exhibit A** (1 page).

The Assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent. Attached hereto as

Exhibit B (3 pages) is the Assignment showing the Assignee name as SLOAN-KETTERING INSTITUTE FOR CANCER RESEARCH.

Applicants hereby authorize the Certificate of Correction fee of ONE HUNDRED DOLLARS ($100.00) as set forth in 37 CFR 1.20(a) to be charged to Deposit Account No. 50-1891.

Applicants also hereby authorize the Processing fee of ONE HUNDRED THIRTY DOLLARS ($130.00) as set forth in 37 CRF 1.17(i) to be charged to Deposit Account No. 50-1891.

If a telephone interview would be of assistance in facilitating the request, Applicants' undersigned attorney invites the Examiner to telephone him at the number provided below. If any additional fee is required, authorization is hereby given to charge the amount of any such fee to Deposit Account No. 50-1891.

Respectfully submitted,

Albert Wai-Kit Chan

Albert Wai-Kit Chan
Registration No. 36,479
Attorney for Applicants
Law Offices of
Albert Wai-Kit Chan, PLLC
World Plaza, Suite 604
141-07 20th Avenue
Whitestone, New York 11357
Tel: (718) 799-1000
Fax: (718) 357-8615
E-mail: chank@kitchanlaw.com

EXHIBIT A

PTO/SB/44 (09-07)
Approved for use through 08/31/2010. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,422,893 B2

APPLICATION NO.: 10/378,585

ISSUE DATE : September 9, 2008

INVENTOR(S) : Gene R. Diresta, John H. Healey, and Robert Schwar

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

In (73) Assignee section, "Memorial Sloan-Kettering Cancer Center" should be -- Sloan-Kettering Institute for Cancer Research --

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

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

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

EXHIBIT B

ASSIGNMENT

In consideration of One Dollar ($1.00), and other good and valuable considerations, the receipt of which is hereby acknowledged, I, the undersigned,

GENE R. DIRESTA, residing at 8 HAYS HILL ROAD, PLEASANTVILLE, NEW YORK 10570, UNITED STATES OF AMERICA, JOHN H. HEALEY, residing at 333 EAST 68TH STREET, NEW YORK, NEW YORK 10021, UNITED STATES OF AMERICA, and ROBERT SCHWAR, residing at 1018 COLD SPRING ROAD, FORESTBURGH, NEW YORK, UNITED STATES OF AMERICA

Hereby sell, assign and transfer to SLOAN-KETTERING INSTITUTE FOR CANCER RESEARCH, a corporation of the State of New York having a place of business at 1275 YORK AVENUE, NEW YORK, NEW YORK 10021, UNITED STATES OF AMERICA, and to its successors, assigns and legal representatives, the entire right, title and interest for all countries, in and to any and all inventions which are disclosed and claimed, and any and all inventions which are disclosed but not claimed, in the application for United States Letters Patent, which has been executed by the undersigned on 03/13/2003, 03/14/2003, 03/12/2003 and is entitled

APPARATUS FOR GROWING CELLS UNDER VARIABLE HYDROSTATIC PRESSURES

U.S. Serial No. Not Yet Known, Filed March 3, 2003 priority of
U.S. Serial No. 60/360,976, Filed March 1, 2002

and in and said application and all divisional, continuing, substitute, renewal, reissue, and all other applications for United States Letters Patent or other related property rights in any and all foreign countries which have been or shall be filed on any of said inventions disclosed in said application; and in and to all original and reissued patents or related foreign documents which have been or shall be issued on said inventions;

Authorize and request the Commissioner of Patents of the United States to issue to said Assignees, the corporations above named, their successors, assigns and legal representatives, in accordance with this assignment, any and all United States Letters Patent on said inventions or any of them disclosed in said application;

Agree that said assignees may apply for and received foreign Letters Patent or rights of any other kind for said inventions, or any of them; and may claim, in applications for said foreign Letters Patent or other rights, the priority of the aforesaid United States patent application under the provisions of the International Convention of 1883 and later

modifications thereof, under the Patent Cooperation Treaty, under the European Patent Convention or under any other available international agreement; and that, when requested, without charge to, but at the expense of, said Assignees, their successors, assigns and legal representatives, to carry out in good faith the intent and purpose of this assignment, the undersigned or the undersigned's executors or administrators will, for the United States and all foreign countries, execute all divisional, continuing, substitute, renewal, reissue, and all other patent applications or other documents on any and all said inventions; execute all rightful oaths, assignments, powers of attorney and other papers; communicate to said Assignees, their successors, assigns and representatives, all facts known and documents available to the undersigned relating to said inventions and the history thereof; testify in all legal proceedings; and generally do everything possible which said Assignees, their successors, assigns or representatives shall consider desirable for aiding in securing, maintaining and enforcing proper patent protection for said inventions and for vesting title to said inventions and all applications for patents or related foreign rights and all patents on said inventions, in said Assignees, their successors, assigns and legal representatives; and

COVENANT with said Assignees, their successors, assigns and legal representatives that no assignment, grant, mortgage, license or other agreement affecting the rights and property herein conveyed has been made to others by the undersigned, and that full right to convey the same as herein expressed is possessed by the undersigned.

Gene R. DiResta

Gene R. DIRESTA

Date: 3/13, 2003

Witness: Krystal Hasan

(signature)

Krystal Hasan

(printed name of witness)

34-20 42St LIC

(address of witness)

KRYSTAL HASAN
Notary Public, State of New York
No. 01HA5073030
Qualified in Queens County
Commission Expires Feb. 10, 05

John H Healey

John H. HEALEY

Date: 3/14, 2003

Witness: Krystal Hasan

(signature)

Krystal Hasan

(printed name of witness)

34-20 42St LIC

(address of witness)

KRYSTAL HASAN
Notary Public, State of New York
No. 01HA5073030
Qualified in Queens County
Commission Expires Feb. 10, 05

Robert SCHWAR

Date: MARCH 12, 2003

Witness:

(signature)

PAUL FRISCH

(printed name of witness)

31 HIGHVIEW AV. NANUET, NY 10954

(address of witness)

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD, HILLS MI 48303

COPY MAILED
SEP 0 7 2004
OFFICE OF PETITIONS

In re Application of :
Katsumi Mori :
Application No. 10/378,589 :
Filed: March 3, 2003 :
Attorney Docket No. 9319S-000454 :

ON PETITION

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on July 19, 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 2818 for further processing of the request for continued examination under 37 CFR 1.114 filed August 3, 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).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 03/01/06

TO SPE OF : ART UNIT 2877

SUBJECT : Request for Certificate of Correction on Patent No.: 10/378591 6856393

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

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

Thank You For Your Assistance

Angela Green
Certificates of Correction Branch
Tel. No. 703-305-9380 ext. 123

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

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

Comments:

Gregory J. Toatley, Jr.
Supervisory Patent Examiner

SPE — **Art Unit** 2877

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

LORUSSO & LOUD
3137 Mount Vernone Avenue
Alexandria, VA 22305

COPY MAILED

JUN 28 2005

OFFICE OF PETITIONS

In re Application of
Charles L. Gray
Application No. 10/378,627
Filed: March 5, 2003
Attorney Docket No. None

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed March 28, 2005.

The petition is **GRANTED**.

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

A review of the record discloses that the application became abandoned for failure to pay the issue fee on or before March 21, 2005. This decision precedes the mailing of a Notice of Abandonment.

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

The matter 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

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

cc: Laura Scalise
US Environmental Protection Agency
Office Of General Counsel
1200 Pennsylvania Ave., NW
Washington, DC 20460

#8

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

AUG 24 2004

TECHNOLOGY CENTER 2100

Paper No. 8

Antonelli, Terry, Stout & Kraus, LLP
1300 North Seventeenth Street
Suite 1800
Arlington, VA 22209-9889

In re Application of:
NOBORU MORISHITA et al.
Application No. 10/378,644
Filed: March 5, 2003
For: STORAGE SYSTEM FOR MULTI-SITE REMOTE COPY

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

This is a decision on the petition, filed 20 June 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(h);

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

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

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

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

The submission does not satisfy the requirement of section (e), in that it reproduces the professional searcher's summation of particular references without discussing specific columns and lines of the references and/or specific figures of the references. That is, the submission does not satisfy the requirement, as it does not provide a ***detailed discussion*** of the references. Furthermore, the submission does not satisfy the requirement of section (e) in that it does not point out how the ***claimed subject matter is patentable over the references***. That is, the detailed discussion of the references as required by section (e) does not have the particularity required by 37 CFR 1.111(b) and (c). Petitioner's reference to a particular claim provision on page 5 of the petition does not refer to any specific claim language in independent claim 1 (the only independent claim).

Accordingly, the Petition is **DISMISSED**. The application file is being forwarded to Central Files to await examination in its proper turn based on its effective filing date.

Any request for reconsideration must be filed within two months of the mailing date of this decision.

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

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

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

MILA KASAN, PATENT DEPT.
APPLIED BIOSYSTEMS
850 LINCOLN CENTRE DRIVE
FOSTER CITY CA 94404

COPY MAILED

JAN 29 2008

OFFICE OF PETITIONS

In re Application of	:	
Sean P. Keating et al.	:	
Application No. 10/378,694	:	ON PETITION
Filed: March 3, 2003	:	
Attorney Docket No. 4879 US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 20, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed April 25, 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 July 26, 2006. The Notice of Abandonment was mailed November 3, 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 $1,500; and (3) an adequate statement of unintentional delay.

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

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

The application file is being referred to Technology Center AU 1631 for appropriate action on the concurrently filed amendment.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 9

WORKMAN NYDEGGER (F/K/A WORKMAN NYDEGGER & SEELEY)
60 EAST SOUTH TEMPLE
1000 EAGLE GATE TOWER
SALT LAKE CITY, UT 84111

COPY MAILED

JUN 3 0 2004

OFFICE OF PETITIONS

In re Application of	:	
Ice et al.	:	
Application No. 10/378,708	:	ON PETITION
Filed: March 3, 2003	:	
Attorney Docket No. 15436.250.36	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed June 16, 2004, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed April 29, 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 timely obtained. Accordingly, the above-identified application became abandoned on June 30, 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).

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 $2010.00 extension of time fee submitted with the petition on June 16, 2004 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's credit card.

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

Telephone inquiries should be directed to the undersigned at (703) 306-0482.

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

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.

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

COPY MAILED

MAY 0 6 2008

OFFICE OF PETITIONS

In re Application of	:	
Ice et al.	:	DECISION ON
Application No. 10/378,708	:	PETITION
Filed: March 3, 2003	:	
Atty Docket No. 15436.250.36	:	

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b), filed December 28, 2007.

The petition is **GRANTED**.

The above-identified application was abandoned for failure to timely file a proper reply to the final Office action mailed May 15, 2007. This Office action set a shortened statutory period for reply of three (3) months from the mail date of the action. A reply, made timely by an accompanying petition and fee for extension of time for response within the second month, was filed on October 15, 2007. However, this reply did not place the application in condition for allowance. No proper reply having been received and no further extension of time obtained the application became abandoned effective October 16, 2007. The filing of the instant petition precedes the mailing of a courtesy Notice of Abandonment.

On petition, petitioner submitted a Request for Continued Examination (RCE) and submission under §1.114 (in the form of further arguments in support of previously filed amendment); paid the petition fee; and made the required statement of unintentional delay.

It is noted that the instant petition was filed prior to the mailing of an Advisory Action or of a Notice of Abandonment. It is unclear how petitioner became aware that the previously filed amendment did not place the application in condition for allowance. Nonetheless, it did not. The examiner has prepared an Advisory Action to that effect to make the record clear. A copy of the Advisory Action is enclosed.

Technology Center AU 2841 has been advised of this decision. The application is, thereby, forwarded to the examiner for consideration of the RCE and submission submitted on petition filed December 28, 2007.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of Advisory Action

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/378,708	Applicant(s) ICE ET AL.	
	Examiner HUNG S. BUI	Art Unit 2841	

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

THE REPLY FILED 15 October 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

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

NOTICE OF APPEAL

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

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.
   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: *24-28,41 and 42*.
   Claim(s) objected to: _____.
   Claim(s) rejected: *10-17 and 21-23*.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

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

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: Examiner maintains the Final Office Action mailed on 05/15/2007.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/Hung S. Bui/
Primary Examiner
Art Unit: 2841

PAGE 2/3 * RCVD AT 4/29/2008 4:58:44 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-5/8 * DNIS:2733219 * CSID: * DURATION (mm-ss):01-08

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Cooley Godward Kronish LLP
Attn: Patent Group
Suite 500
1200- 19th Street, NW
Washington DC, 20036-2402

COPY MAILED

AUG 01 2007

OFFICE OF PETITIONS

In re Application of	:	
George Gombas et al.	:	
Application No. 10/378,742	:	DECISION ON PETITION
Filed: March 4, 2003	:	TO WITHDRAW
Attorney Docket No. NPUL-001/01US	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 11, 2007.

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

A review of the file record indicates that the power of attorney to Cooley Godward Kronish LLP has been revoked by the assignee of the patent application on April 6, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Knobbe Martens Olson & Bear LLP**
2040 Main Street
Fourteenth Floor
Irvine, CA 92614

Customer No.: 43400

Sheet 1 of 1

FORM PTO-1449 (MODIFIED)

U.S. DEPARTMENT OF COMMERCE
PATENT AND TRADEMARK OFFICE

LIST OF PRIOR ART CITED BY APPLICANT
(Use several sheets if necessary)

ATTY. DOCKET NO.	SERIAL NO.
AAI-14194	10/378,750
APPLICANT(S) Michael W. BARNES et al.	
FILING DATE 04 March 2003	GROUP 3543

RECEIVED
CENTRAL FAX CENTER
JUN 0 6 2007

U.S. PATENT DOCUMENTS

*EXAMINER INITIAL		DOCUMENT NUMBER	DATE	NAME	CLASS	SUBCLASS	FILING DATE IF APPROPRIATE
	AA	5,489,349	02/1996	Headley			
	AB						
	AC						
	AD						
	AE						
	AF						
	AG						
	AH						
	AI						
	AJ						
	AK						

FOREIGN PATENT DOCUMENTS

		DOCUMENT NUMBER	DATE	COUNTRY	CLASS	SUBCLASS	TRANSLATION YES	TRANSLATION NO
	AL							
	AM							
	AN							
	AO							
	AP							

OTHER PRIOR ART *(Including Author, Title, Date, Pertinent Pages, Etc.)*

	AR	http://www.nap.edu/openbook/0309062462/html/154.html, *Black and Smokeless Powders: Technologies for Finding Bombs and the Bomb Makers*, 2000 The National Academy Press, copyright 1998 (1 page)
	AS	http://www.nap.edu/openbook/0309062462/html/152.html, *Black and Smokeless Powders: Technologies for Finding Bombs and the Bomb Makers*, 2000 The National Academy Press, copyright 1998 (1 page)
	AT	

EXAMINER	DATE CONSIDERED

***EXAMINER:** Initial if reference considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

USCOMM-DC 80-3985

P1005.3/ clb

I

Glossary

Acetone A colorless flammable solvent used in the manufacture of smokeless powder and double-base propellants. Also known as dimethyl ketone.

Audit trail A system of record keeping based on information of manufacture, distribution, and/or retail sale of a commercial product by which that product can be traced from its manufacturer to its retail purchaser.

Ball powder Spherical smokeless powder produced by precipitation in water and flattened to various thicknesses to achieve a wide variety of ballistic performance.

Base grain Smokeless powder that has neither a deterrent coating nor a graphite glaze.

Black powder A deflagrating intimate physical mixture of sulfur, charcoal, and an alkali nitrate, usually potassium, but sometimes sodium nitrate.

Black powder replica An intimate physical mixture of materials similar to those used in the manufacture of black powder designed to replace black powder in some sport-shooting applications. Compositional differences may include replacement of charcoal with compound such as sugar or ascorbic acid as fuels, and addition of other chemicals.

Bulk explosive An unpackaged explosive that is typically shipped in trucks directly to the end user for consumption.

PAGE 17/18 * RCVD AT 6/6/2007 3:51:26 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-3/20 * DNIS:2738300 * CSID:847 490 1403 * DURATION (mm-ss):04-26

Rework from partially processed material is recycled to the beginning step of the manufacturing.

Rimfire A low-cost small-arms cartridge (usually .22 caliber) with the priming compound contained in the rim. Because the cartridge is deformed during firing, it cannot be reloaded. As opposed to centerfire, which has a cavity for a replaceable primer.

Rolling A process of size reduction during the manufacture of smokeless powder, in which the propellant is passed between a pair of rolls (also known as calender rolls used in papermaking) separated by a very small adjustable space.

Saltpeter Potassium nitrate.

Shock wave A high-pressure wave or pressure disturbance traveling at a speed faster than sound in that medium.

Single base Smokeless powder or propellant based solely on nitrocellulose as the energetic material.

Small arms Guns, typically handheld, or ammunition for a gun, of less than 20-mm caliber.

Smokeless powder A granular, free-flowing, solid propellant of various morphologies, using nitrocelluse as an active ingredient. It is classified as single base (with nitrocelluse as the only active ingredient), double base (with nitrocelluse and nitroglycerin), or triple base (with nitrocelluse, nitroglycerin, and nitroguanidine). Smokeless powder is commonly used in small-arms ammunition.

Solvent recovery The process of capturing, recovery, and reuse of volatile, flammable processing solvents used in the manufacture of smokeless powder to avoid discharging the solvents into the atmosphere.

Solve rate The percentage of bombing incidents for which a perpetrator can be identified.

Stabilizer A chemical incorporated in solid propellant to react with the decomposition products and prolong the shelf life of the propellant. Typically used at concentration of 0.5 percent to 2 percent. When properly stabilized, smokeless powder has a shelf life of nearly 100 years at 20 °C.

Taggant An additive (or tracer element) designed to survive an explosion and to be recoverable at the bomb scene, used to aid law enforcement personnel in

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

RABIN & BERDO, PC
1101 14TH STREET, NW
SUITE 500
WASHINGTON, DC 20005

COPY MAILED

FEB 12 2007

OFFICE OF PETITIONS

NOTICE

In re Patent No. 6,910,709 :
Issue Date: June 28, 2005 :
Application No. 10/378,753 :
Filed: March 5, 2003 :
Attorney Docket No. 3313-0922P

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

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

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

Inquiries related to this communication should be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

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

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

COPY MAILED

MAY 3 1 2006

OFFICE OF PETITIONS

In re Application of :
Sergey A. Velichko et al :
Application No. 10/378,757 : ON PETITION
Filed: March 4, 2003 :
Attorney Docket No. 2269-5469US :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed May 22, 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 September 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]

Telephone inquiries should be directed to Wan Laymon at (571) 272-3220.

This application is being referred to Technology Center AU 3742 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Wan Laymon

Wan Laymon
Petitions Examiner
Office of Petitions

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

www.uspto.gov

Date : May 31, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : Sergey A. Velichko et al
Application No. : 10/378,757
Filed : March 4, 2003

The above-identified application has been assigned Patent No. 7,060,947 and an issue date of June 13, 2006.

It is hereby directed that this application be withdrawn from issue at the request of the applicants. Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of June 13, 2006:

"All reference to Patent No. 7,060,947 to Sergey A. Velichko et al of Boise, ID for MULTI-PARAMETER PROCESS AND CONTROL METHOD appearing in the Official Gazette of June 13, 2006 should be deleted since no patent was granted."

Wan Laymon
Petitions Examiner
Office of Petitions

cc: Paul Harrison
Deneise Boyd
Mary Louise McAskill
Niomi Farmer
Mary E. Johnson (Cookie)
Duane Davis (CDS)

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

TRASKBRITT, P.C.
P.O. BOX 2550
SALT LAKE CITY, UT 84110

Mail Date: 05/19/2010

Applicant	: Sergey A. Velichko	: DECISION ON REQUEST FOR
Patent Number	: 7619184	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/378,757	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/04/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **267** 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 P. Cuomo

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 10/378,763

Paper No.: _____

DATE : 6/24/05

TO SPE OF : ART UNIT 3636

SUBJECT : Request for Certificate of Correction on Patent No.: 6877810

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

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

Lamonte M. Newsome

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-305-8309

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

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

Comments:

_____

_____

_____

_____

_____

SPE — 3636 Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

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

INVENTARIUM
Suite 1607
4050, Rosemont Blvd.
Montreal QC H1X 1M4 CA CANADA

COPY MAILED
AUG 28 2006
OFFICE OF PETITIONS

In re Application of :
Marcel Bergevin :
Application No. 10/378,782 : DECISION ON PETITION
Filed: March 3, 2003 :
Title: Process for Making Artificial :
Decorative Masonry

This is a decision on the petition under 37 CFR 1.137(b), filed July 15, 2006, to revive the above-identified application.

This petition is hereby **Dismissed**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** final agency action within the meaning of 5 U.S.C. §704.

This above-identified application became abandoned for failure to timely file a response to a final Office Action which was mailed on June 28, 2005. The final Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on September 29, 2005. A Notice of Abandonment was mailed on March 8, 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(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03 (c)(III)(C) and (D).

The instant petition lacks item (1).

Although petitioner states that a continuation -in-part was filed with the petition, a review of Office records shows a continuing application cannot be located. The proposed reply required for consideration of a petition to revive must be an Appeal brief and fee, an amendment that prima facie places the application in condition for allowance, the filing of a continuing application or a Request for Continued Examination (RCE). See MPEP 711.03(c)(III)(A)(2) and 37 CFR 1.114.

Accordingly, this application cannot be revived.

The address on the petition differs from the correspondence address of record. While a courtesy copy of this decision is being mailed to the person signing the present 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:

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office Customer Service Window, Randolph Building 401 Dulany Street Alexandria, VA 22314

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

cc: Marcel Bergevin
275 Bernierea Repentigny
Quebec JBA 7X6
Canada

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

INVENTARIUM
Suite 1607
4050, Rosemont Blvd.
Montreal QC H1X 1M4 CA CANADA

COPY MAILED

JAN 05 2007

OFFICE OF PETITIONS

In re Application of :
Marcel Bergevin :
Application No. 10/378,782 : DECISION ON PETITION
Filed: March 3, 2003 :
Title: Process for Making Artificial :
Decorative Masonry

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

This above-identified application became abandoned for failure to timely file a response to a final Office Action which was mailed on June 28, 2005. The final Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on September 29, 2005. A Notice of Abandonment was mailed on March 8, 2006.

In light of petitioner's contention that a continuation-in-part was filed, this application is being revived for purposes of continuity only and since continuity has been established by this decision reviving the application. The application is again abandoned in favor of continuation-in-part Application No. 11/486,563 filed on July 15, 2006.

The address on the petition differs from the correspondence address of record. While a courtesy copy of this decision is being mailed to the person signing the present 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 matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

cc: Marcel Bergevin
275 Bernierea Repentigny
Quebec JBA 7X6
Canada

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 7

OLSON & HIERL, LTD.
36TH FLOOR
20 NORTH WACKER DRIVE
CHICAGO, IL 60606

COPY MAILED

MAR 0 5 2004

OFFICE OF PETITIONS

In re Application of
Chatterji, Arun K.
Application No. 10/378,789
Filed: March 4, 2003
Attorney Docket No. AYU-102

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 19, 2004, to revive the above-identified application.

The petition is **granted.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) 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. A Notice of Abandonment was mailed on February 5, 2004.

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

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

Telephone inquiries should be directed to the undersigned at (703) 306-0482.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

10-29-08

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

Patent No. : 7,390,665
Ser. No. : 10/378,797
Inventor(s) : Steven B. Gilmour, et. al.
Issued : June 24, 2008
Title : DISTINGUISHING TEST TYPES THROUGHT SPECTRAL ANALYSIS
Docket No. : 02-1009-B

Re: Request for Certificate of Correction

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

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 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
40l 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 105

Eric P. Raciti
Finnegan, Henderson, Farabow,
Garrett & Dunner, LLP
1300 I Street, NW
Washington, DC 20005-3315

ej

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 1/19/05

Paper No.: —

TO SPE OF : ART UNIT 2856

SUBJECT : Request for Certificate of Correction on Patent No.: 6768959 B2

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-915
Palm location **7580** - Tel. No. 305-8309

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

Virginia Tolbert

Thank You For Your Assistance

Certificates of Correction Branch

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

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

Comments:

Change to col. 13 (line 14, i.e. equation 42) should instead be:

$$L = \frac{1}{N} \sum_{i=0}^{N} [(\tilde{x}_i - x_i)\alpha_0 + (\tilde{y}_i - y_i) b_0]$$

Change to col. 15, line 7 ok but

Also in col. 15, line 7 "an" should be --on--.

HEZRON WILLIAMS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

SPE

2856
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

TN 4/11/05 AU 2856

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov
DW 05-03

Paper No. 3

BAKER BOTTS L.L.P.
2001 ROSS AVENUE
SUITE 600
DALLAS TX 75201-2980

COPY MAILED

MAY 02 2003

OFFICE OF PETITIONS

In re Application of	:
Manoel Tenorio	:
Application No. 10/378,802	: DECISION REFUSING STATUS
Filed: 3 March, 2003	: UNDER 37 CFR 1.47(b)
Attorney Docket No. 020431.0924	:

This is in response to the petition filed on 3 March, 2003, and received in the Office of Petitions on 22 April, 2003, under 37 CFR 1.47(b).

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(b)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified application was filed on 3 March, 2003, with a declaration naming Manoel Tenorio as the sole inventor and signed by Robert C. Donohoo, Vice President and General Counsel of assignee i2 on behalf of the non-signing inventor.

Petitioner asserts that the inventor was employed with Aspect Development, Inc., (by merger i2 Technologies US, Inc.) has left the United States for Brazil and cannot now be reached.

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 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 statement of the last known address of the non-signing inventor;

(5) proof of proprietary interest, and

(6) proof of irreparable damage.

The petition lacks items (1), and (6).

In regards to item (1), petitioners must supply proof that a copy of the application (specification including claims, drawings, if any, and the declaration) was sent or given to the non-signing inventor for review.[1] Petitioners should submit a copy of the cover letter transmitting the application papers to the non-signing inventor or details given in an affidavit or declaration of facts by a person having first-hand knowledge of the details.

Additionally, petitioners must present proof that diligent efforts were made to locate the non-signing inventor.[2] A copy of the application papers should be sent to the last known address of the non-signing inventor with a request that he sign the declaration for the patent application. Petitioner should provide a copy of the envelope showing that the application was returned as undeliverable. Petitioner should also explain what attempts were made to obtain a forwarding address and to locate the inventor through other means. If attempts to obtain a forwarding address and to locate the inventor by other means (e.g. though e-mail or the telephone) continue to fail, then applicant will have established that the inventor cannot be reached.

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. The specific dates and times that the application was mailed and other attempts, such as telephone calls or e-mail searches, were made should be included.

If there is a written refusal to sign the declaration , a copy of the written refusal should be submitted with any renewed petition. If the refusal was made orally to a person, then that

---

[1] MPEP 409.03(d).

[2] Id.

person must provide details of the refusal in an affidavit or declaration of facts.

It is noted that the employment agreement with Aspect Technologies lists the inventors name as "Noel Tenorio". The Office is construing this name as referring to the same individual named on the declaration as Manoel Tenorio. Petitioners **must** inform the Office if this is an incorrect interpretation.

As to item (6), petitioners must provide a statement that the filing is necessary to prevent irreparable damage or to preserve the rights of the parties.[3]

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

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

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

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

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

[3] MPEP 409.03(g).

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

BAKER BOTTS L.L.P.
2001 ROSS AVENUE
SUITE 600
DALLAS TX 75201-2980

COPY MAILED

JUN 1 2 2003

OFFICE OF PETITIONS

In re Application of	:
Manoel Tenorio	: DECISION NOTING JOINDER OF
Application No. 10/378,802	: INVENTOR AND PETITION UNDER
Filed: 3 March, 2003	: UNDER 37 CFR 1.47(b) MOOT
Attorney Docket No. 020431.0924	:

Papers filed on 4 June, 2003, in response to the decision dismissing petition mailed on 2 May, 2003, included a Declaration signed by the previously non-signing inventor, Manoel Tenorio, in compliance with 37 CFR 1.63.

In view of the joinder of the inventor, further consideration under 37 CFR 1.47(b) is moot; this application does not have any rule 1.47(b) status and no such status should appear on the file wrapper. This application need not be returned to this office for any further consideration under 37 CFR 1.47(b).

This application will be forwarded to Technology Center 2100 for examination in due course.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Booth Udall, PLC
1155 W Rio Salado Parkway
Suite 101
Tempe, AZ 85281

Mail Date: 04/20/2010

Applicant	: Manoel Tenorio	: DECISION ON REQUEST FOR
Patent Number	: 7660741	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/378,802	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/03/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **908** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. None

BURNS, DOANE, SWECKER & MATHIS, L.L.P.
P.O. Box 1404
Alexandria VA 22313-1404

COPY MAILED

JUN 2 8 2004

OFFICE OF PETITIONS

In re Application of
Hirokazu Matsukawa et al.
Application No. 10/378,821
Filed: March 5, 2003
Attorney Docket No. 028022-021
Title: LIQUID REAGENT FOR CALCIUM ASSAY

DECISION ON PETITION

This is a decision on the "Reply to Notice of Incomplete Nonprovisional Application," filed June 17, 2003, requesting that the above-identified application be accorded a filing date of March 5, 2003, with Figures one through four (1-4) as part of the original disclosure of the application.

The application was deposited on March 5, 2003. However, on June 10, 2003, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Incomplete Nonprovisional Application – Filing Date Not Granted" (notice) stating that the application had NOT been accorded a filing date, and advising applicants that the application was deposited without drawings. The notice further indicated that a filing date would be accorded when the drawings were received.

On June 17, 2003, the instant petition was filed, along with a copy of the Utility Patent Application Transmittal sheet which was included upon filing[1], three (3) pages of drawings[2], and a declaration attesting that these drawings are the same as those which were in the parent application. The petition fee has been charged to Petitioner's Deposit Account, as authorized in the petition.

Petitioner has also submitted a postcard which shows that the drawings were not included on filing. However, Petitioner contends that these three (3) pages of drawings were constructively included on filing, through incorporation by reference. The Utility Patent Application Transmittal sheet indicates that the entire disclosure of the parent application (09/734,731, filed on December 13, 2000) is incorporated by reference.

1 The copy which was included on filing has been located in the electronic file.
2 The drawings consist of Figures one through four (1-4).

The Office allows an applicant to rely upon an incorporation by reference of a parent application when a portion of the child application has been inadvertently omitted. It is noted that the application transmittal letter identifies this application as a division of prior application No. 09/734,731, and specifically incorporated by reference the disclosure of the prior application. Section 201.06(c) of the MPEP sets forth, in part:

> an applicant may incorporate by reference the prior application by including, in the continuation or divisional application-as-filed, a statement that such specifically enumerated prior application or applications are "hereby incorporated herein by reference." The statement may appear in the specification or in the application transmittal letter. The incorporation by reference statement can only be relied upon to permit the entering of a portion of the prior application into the continuation or divisional application when the portion of the prior application has been inadvertently omitted from the submitted application papers in the continuation or divisional application. The inclusion of this incorporation by reference of the prior application(s) will permit an applicant to amend the continuation or divisional application to include any subject matter in such prior application(s), without the need for a petition (emphasis added) provided the continuation or divisional application is entitled to a filing date notwithstanding the incorporation by reference.

For these reasons, the petition under 37 CFR 1.53(b) is **GRANTED-IN-PART**.

The application will receive a filing date of March 5, 2003. However, the three (3) pages of drawings submitted with the instant petition will not be entered. If petitioner desires for the examiner to consider the missing pages which were not submitted as part of the original disclosure, then petitioner may submit these pages via an amendment. Any such amendment will, of course, be reviewed by the examiner for new matter[3]. The amendment is not new matter if the substance was a part of the disclosure of the prior application.

The original application papers will include only those application papers present on the date of deposit.

The petition fee of $130.00 will not be refunded, as this petition was not necessitated by any error on the part of the Office.

The Application is being returned to the Office of Initial Patent Examination for further processing with a filing date of March 5, 2003, using only the application papers filed on that date.

Telephone inquiries specific to this matter should be directed to the undersigned at (703) 305-0011.

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

3 See MPEP 608.02(a).

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA VA 22314

COPY MAILED

DEC 0 6 2004

OFFICE OF PETITIONS

In re Application of	:	
Ming Nien	:	
Application No. 10/378,829	:	NOTICE
Filed: March 5, 2002	:	
Attorney Docket No. NIEN3022/EM		

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 referred to Publishing Division for further processing.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA, VA 22314

COPY MAILED

NOV 0 3 2004

OFFICE OF PETITIONS

In re Application of	:	
Nien, Ming	:	
Application No. 10/378,834	:	ON PETITION
Filed: March 5, 2003	:	
Attorney Docket No. NIEN3024/WKP	:	

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

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

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-3282.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW Jan-06

TROXELL LAW OFFICE PLLC
SUITE 1404
5205 LEESBURG PIKE
FALLS CHURCH VA 22041

COPY MAILED

JAN 27 2006

OFFICE OF PETITIONS

In re Application of	:	
Chien-Teh Huang	:	DECISION ON PETITION
Application No. 10/378,879	:	TO WITHDRAW HOLDING OF
Filed: 5 March, 2003	:	ABANDONMENT
Atty Docket No. BHT-3238-3	:	

This is in response to the petition filed on 14 December, 2005, to withdraw the holding of abandonment of the above-identified application.

This application is in an abandoned status for failure to respond in a timely and effective manner to the Notice of Non-Compliant Amendment (37 CFR 1.121) mailed on 21 April, 2005. A Notice of Abandonment was mailed on 28 December, 2005.

Petitioners assert that the Office communication mailed on 21 April, 2005, was not received. In the absence of any irregularity in the mailing of an Office communication, there is a strong presumption that the Office communication was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Notice of Allowance was not in fact received. The showing required to establish the failure to receive 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.[1] The showing outlined above may not be sufficient if there are

[1] See "Withdrawing the Holding of Abandonment When Office Actions Are Not Received" 1156 Official Gazette 53 (November 16, 1993) and M.P.E.P. § 711.03(c).

circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

A review of the record indicates that the non-final Office action was properly mailed to the practitioner of record at the correspondence address of record at the time of mailing. Thus, there was no irregularity in mailing the non-final Office action on the part of the United States Patent and Trademark Office (Office).

To support the petition, the petitioner has submitted copies of the docket records where the non-received Office communication would have been entered had it been received, and a statement from the practitioner stating that a search of the file jacket and docket records indicates that the Office communication was not received.

The petitioner has made a sufficient showing of non-receipt of the Office communication based upon the docket records submitted and upon the statements from the practitioner. Accordingly, the application was not abandoned in fact.

The petition is **GRANTED.**

As petitioner has submitted a response to the Office communication mailed on 21 April, 2005, the application will be forwarded to the Technology Center for consideration of petitioner's response.

The application file will be forwarded to Technology Center Art Unit 3635 for further processing.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : Oct. 13, 2006

TO SPE OF : **Technology Center 1722**

SUBJECT : Request for Certificate of Correction on Patent No.: **10/378896 – 7067008 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.

Thank You For Your Assistance

Elisha Evans
Certificates of Correction Branch
Tel. No. 703-308-9390 EXT 110

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:

DUANE SMITH
SUPERVISORY PATENT EXAMINER

SPE — 1722 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 : June 23, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : Joseph Hayden et al
Application No. : 10/378,945
Filed : March 5, 2003

The above-identified application has been assigned Patent No. 6,911,409 and an issue date of June 28, 2005.

It is hereby directed that this application be withdrawn from issue at the request of the applicants. Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of June 28, 2005:

"All reference to Patent No. 6,911,409 to Joseph Hayden et al of Clarks Summit, PA for RARE EARTH CONTAINING P2O5-WO3-NA2O GLASS FOR LASER APPLICATIONS appearing in the Official Gazette of June 28, 2005 should be deleted since no patent was granted."

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

cc: Paul Harrison; Crystal Park 3, Suite 441 (FAX-703-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-910 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane Davis (CDS), CM1-6A07
Tamara K. Greene, PK3-910

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MILLEN WHITE ZELANO & BRANIGAN, P.C.
2200 CLARENDON BLVD., SUITE 1400
ARLINGTON, VA 22201

COPY MAILED

JUN 2 3 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Joseph Hayden et al :
Application No. 10/378,945 :
Filed: March 5, 2003 :
Attorney Docket No. SGT-58 :

This is a decision on the petition under 37 CFR 1.313 (c)(2), filed June 23, 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 May 20, 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 1755 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
Office of the Deputy Commissioner
for Patent Examination Policy

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JOE MCKINNEY MUNCY
BIRCH STEWART KOLASCH & BIRCH LLP
P.O. BOX 747
FALLS CHURCH, VA 22040-0747

COPY MAILED

JAN 1 2 2004

OFFICE OF PETITIONS

In re Application of
Hung-Jen Chu et al
Application No. 10/378,948
Filed: March 5, 2003
Attorney Docket No. 4444-0109P

NOTICE

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

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

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

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

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

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

Effective December 1, 2003, the Office of Petitions can no longer receive hand-carried correspondence, or facsimile transmissions of correspondence. The centralized location for hand-carried correspondence is the Customer Window located at:

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

The centralized facsimile number is **(703) 872-9306.**

This file is being forwarded to Technology Center AU 2814.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/378,956	03/03/2003	Michael J. Zaworotko	USF-106XC1	4742

23557 7590 10/01/2009
SALIWANCHIK LLOYD & SALIWANCHIK
A PROFESSIONAL ASSOCIATION
PO Box 142950
GAINESVILLE, FL 32614

EXAMINER
JAVANMARD, SAHAR

ART UNIT	PAPER NUMBER
1617	

NOTIFICATION DATE	DELIVERY MODE
10/01/2009	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):

euspto@slspatents.com

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.
10378956	3/3/2003	ZAWOROTKO ET AL.	USF-106XC1

EXAMINER
SAHAR JAVANMARD

ART UNIT	PAPER
1617	20090830

DATE MAILED:

SALIWANCHIK LLOYD & SALIWANCHIK
A PROFESSIONAL ASSOCIATION
PO Box 142950
GAINESVILLE, FL 32614

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

Commissioner for Patents

This is a decision on the PETITION FOR ACCPTANCE OF COLOR DRAWINGS UNDER 37CFR1.83(a)(2). The petition was filed January 21, 2009. 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 should not 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 Sreeni Padmanbhan, by telephone at 571-272-0629.

Sreeni Padmanabhan
Supervisory Patent Examiner, Art Unit 1617

/SREENI PADMANABHAN/
Supervisory Patent Examiner, Art Unit 1617

/S. J./
Examiner, Art Unit 1617

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.
10378956	3/3/2003	ZAWOROTKO ET AL.	USF-106XC1

EXAMINER
SAHAR JAVANMARD

ART UNIT	PAPER
1617	20090830

SALIWANCHIK LLOYD & SALIWANCHIK
A PROFESSIONAL ASSOCIATION
PO Box 142950
GAINESVILLE, FL 32614

DATE MAILED:

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

Commissioner for Patents

This is a decision on the PETITION FOR ACCPTANCE OF COLOR DRAWINGS UNDER 37CFR1.83(a)(2). The petition was filed January 21, 2009. 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 should not 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 Sreeni Padmanbhan, by telephone at 571-272-0629.

Sreeni Padmanabhan
Supervisory Patent Examiner, Art Unit 1617

/SREENI PADMANABHAN/
Supervisory Patent Examiner, Art Unit 1617

/S. J./
Examiner, Art Unit 1617

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

CANTOR COLBURN
55 GRIFFIN ROAD SOUTH
BLOOMFIELD CT 06002

COPY MAILED

MAR 2 4 2004

OFFICE OF PETITIONS

In re Application of	:	
Bell, et al.	:	DECISION ON
Application No. 10/379,000	:	PETITION
Filed: March 4, 2003	:	
Attorney Docket No. 96-1292-D3	:	

This is in response to the "Statement for Petition for Revival Under 37 C.F.R. §1.137(a), or in the Alternative Under 37 C.F.R. §1.137(b), filed March 15, 2004 (Certificate of Mailing dated March 11, 2004).

The petition under 37 CFR 1.137(a) is **DISMISSED**.

The petition under 37 CRR 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 July 23, 2003. No extensions of time were permitted. No response having been received, the above-identified application became abandoned on October 24, 2003. A Notice of Abandonment was mailed on February 23, 2004.

Petition Under 37 CFR 1.137(a):

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); (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). The instant petition lacks item (3).

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable: "The word 'unavoidable' ... is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business."[1]

Moreover, delay resulting from the lack of knowledge or improper application of the patent statutes, rules of practice or the Manual of Patent Examining Procedure, however, does not constitute "unavoidable" delay.[2]

Petitioner states that he failed to receive the non-final Office action mailed July 23, 2003. Petitioner argues that he properly informed the USPTO of a change in address, and that the non-final Office action was mailed to petitioner's old address.

Where an application becomes abandoned as a consequence of a change of correspondence address (the Office action being mailed to the old, uncorrected address and failing to reach the applicant in sufficient time to permit a timely reply) an adequate showing of "unavoidable" delay will require a showing that due care was taken to adhere to the requirement for prompt notification in each concerned application of the change of address[3], and must include an adequate showing that a **timely notification of the change of address was filed** in the application concerned, and in a manner reasonably calculated to call attention to the fact that it was a notification of change of address.

Here, the Change of Correspondence Address was not filed in the instant application until July 31, 2003. As such, at the time the July 23, 2003 Office action was mailed, it was mailed to the proper address of record.

Petitioner also argues that he had a forwarding order with the United States Postal Service that forwarded mail from the old address to the new address.[4] This does not constitute unavoidable delay within the meaning of 37 CFR 1.137(a). Had petitioner timely informed the Office of the change in address, the application would not have gone abandoned.

---

[1] In re Mattulath, 38 App. D.C. 497, 514-15 (1912)(*quoting* Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 U.S.P.Q. 666, 167-68 (D.D.C. 1963), aff'd, 143 U.S.P.Q. 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913).

[2] See Haines, 673 F. Supp. at 317, 5 U.S.P.Q. 2d at 1132; Vincent v. Mossinghoff, 230 U.S.P.Q. 621, 624 (D.D.C. 1985); Smith v. Diamond, 209 U.S.P.Q. 1091 (D.D.C. 1981); Potter v. Dann, 201 U.S.P.Q. 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (1891).

[3] See MPEP 601.03; See also Ray v. Lehman, 55 F.3d 606, 34 U.S.P.Q.2d 1786 (CAFC 1995).

[4] Petitioner failed to submit any evidence of this forwarding order.

The $55 fee for the petition under 37 CFR 1.137(a) has been charged to petitioner's deposit account, as authorized.

Petition Under 37 CFR 1.137(b):

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.

The $665 fee for the petition under 37 CFR 1.137(b) has been charged to petitioner's deposit account, as authorized.

The application file is being forwarded to Group Art Unit 1773 for consideration of the amendment filed March 15, 2004.

Telephone inquiries related to this decision should be directed to the undersigned at (703) 305-0272.

Cliff Congo

Cliff Congo
Petitions Attorney
Office of Petitions

U.S Application # 10/379,010

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/17/2005

TO SPE OF : ART UNIT **1600**

SUBJECT : Request for Certificate of Correction on Patent No.: **6,821,764**

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

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

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

Ernest C. White, LIE305-8339
Certificates of Correction Branch

Thank You For Your Assistance

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

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

Comments:

_____

_____

_____

_____

_____

SPE

1652
Art Unit

10/379,010.

Rev. 2/94

C of 2

PATENT

OIPE JC103
JAN 2 4 2005
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

U.S. PATENT: 6821764 CASE NO.: BB1167USCIP

PATENTEE: STEPHEN M. ALLEN, CARL A. MAXWELL, SAVERIO CARL FALCO ART UNIT: 1652

ISSUED: NOVEMBER 23, 2004 EXAMINER: TEKCHAND SAIDHA

ASSIGNED: E. I. DU PONT DE NEMOURS AND COMPANY

FOR: SULFATE ASSIMILATION PROTEINS

Certificate
FEB 0 3 2005
of Correction

REQUEST FOR CERTIFICATE OF CORRECTION

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

01/27/2005 MWOLDGE1 00000031 041928 6821764
01 FC:1811 100.00 DA

Sir:

The patentee through his attorney/agent hereby respectfully requests that a Certificate of Correction be issued in the above-referenced patent to correct printing errors in accordance with the attached Certificate of Correction Form PTO/SB/44 submitted in duplicate herewith.

The present request for Certificate of Correction proposes a correction of an obvious error in Claim 1 of US Patent No. 6,821,764 pursuant to the Examiner's Amendment that was mailed on July 9, 2004. During a telephone interview on June 24, 2004, Applicants' representative and Examiner agreed to certain amendments to the claims that put the case in condition for allowance. These changes did not include amending Claim 1(a) to based on the "cluster" for which there is no support in the instant specification. The claim should read based on the "Clustal V method of alignment". Unfortunately, this obvious error was not noted by Applicants until issuance of the above-identified patent. Support for this amendment can be found throughout the instant specification and in the claims as originally filed. Thus, no new matter has been added. Accordingly, entry of this request for Certificate of Correction is respectfully requested.

Please charge the fee as set in 37 CFR 1.20(a) for $100.00 to Deposit Account No. 04-1928 (E. I. du Pont de Nemours and Company). If this fee is insufficient or incorrect, please

4 FEB 2005

charge or credit the balance to the above-identified Deposit Account.

Respectfully submitted,

Dawn S. Clark

DAWN S. CLARK
AGENT FOR PATENTEE
Registration No.: 42,420
Telephone: (302) 695-1080
Facsimile: (302) 892-1026

Dated: January 18, 2005
Attachment (Form 1050)

OIPE JC103
JAN 2 6 2005
PATENT & TRADEMARK OFFICE

PTO/SB/92 (09-04)
Approved for use through 07/31/2006. OMB 0561-0031
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 contains a valid OMB control number.

Certificate of Mailing under 37 CFR 1.8

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:

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

on January 20 2005.
Date

Susan Durkee
Signature

SUSAN DURKEE
Typed or printed name of person signing Certificate

Registration Number, if applicable

302-892-1892
Telelphone Number

Note: Each paper must have its own certificate of mailing, or this certificate must identify each submitted paper.

10/379010

BB1167USCIP

CERTIFICATE OF CORRECTION
FORM PTO/SB/44 (2)
POSTCARD

This collection of information is required by 37 CFR 1.8. 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 1.8 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.

3 FEB 2005

3 FEB 2005

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

PATENT NO. : 6821764

DATED : November 23, 2004

INVENTOR(S) : ALLEN STEPHEN M.,FALCO SAVERIO CARL,MAXWELL CARL A.

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

Last page of patent, Column 45, line 7: delete "cluster" and insert therefor --Clustal V method of alignment--.

MAILING ADDRESS OF SENDER:

DAWN S. CLARK
E. I. du Pont de Nemours and Company
4417 Lancaster Pike
Wilmington, Delaware 19805

PATENT NO. 6821764

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.**

3 FEB 2005

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 04042007

DATE : 5-3-05

TO SPE OF : ART UNIT 2877

SUBJECT : Request for Certificate of Correction on Patent No.: 6809809

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 Inventor / Drawing sheets

E Young

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:

Gregory J. Toatley, Jr.
Supervisory Patent Examiner

4 Apr 07

2877

SPE **Art Unit**

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DLA PIPER RUDNICK GRAY CARY US, LLP
2000 UNIVERSITY AVENUE
E. PALO ALTO CA 94303-2248

MAIL

OCT 0 3 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
Friedman, Robert et al :
Application No. 10/379,018 : DECISION ON PETITION
Filed: March 04, 2003 : TO MAKE SPECIAL

For: **Virtual Channel Satellite Communication** :
System With Bandwidth Efficiency :

This is a decision on the petition under 37 C.F.R. §1.102 to make special filed September 12, 2005, which is considered as pursuant to MPEP §708.02 (IV), applicant's age.

A petition to make special under MPEP §708.02, IV, must show that petitioner is 65 years of age, or more. Acceptable evidence includes a birth certificate, copy of a driver's license, or simply a statement by the applicant. No fee is required.

The petition includes a copy of a birth certificate for Robert Friedman showing that he is over 65 years of age.

Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant.

The application is being forwarded to the examiner for expedited prosecution.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications
(571) 272-2986

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JUL 3 1 2009

In re Patent No. **7,124,981** **PARHAM, DEAN** Issue Date: 10/24/2006 Appl No.: **10/379,029** Filed: March 04, 2003 For: **THRUST REVERSER UTILIZING INTEGRATED STRUCTURAL BYPASS DUCT**	**DECISION GRANTING PETITION** *37 CFR 1.324*

This is a decision on Applicant's Petition under 37 C.F.R. 1.48 filed on OCTOBER 24, 2003 to CORRECT INVENTORSHIP OF A PATENT APPLICATION. The petition was renewed on July 29, 2009 and is being treated as a petition under 37 C.F.R. 1.324, Correction of inventorship in patent.

The petition is granted.

On October 24, 2003, applicant filed a petition for correction of inventorship of a patent application under 37 C.F.R. 1.48. Said petition included;

1) A statement of error without deceptive intent on the part of an inventor omitted in the patent application by Peter Beardsley;

2) A new Declaration signed by Dean Parham and Peter Beardsley; and

3) A statement by Counsel Ann Galbraith for The Boeing Company that consents to the amendment of the inventorship.

On June 7, 2006, The Office did not approve said petition to correct inventorship under 37 CFR 1.48 because said petition was not signed by the assignee or by a person "authorized to sign on behalf of the assignee".

On June 20, 2006, applicant filed a "Delegation of Commitment Authority" of The Boeing Company authorizing each attorney employed as an attorney in its Law Department the authority "to take any action relating to the ordinary business of the group". Along with a statement that Ann Galbraith is an attorney employed in the Law Department of The Boeing Company and the execution of said document was performed in the ordinary course of business of the company and assigned responsibilities of her group This paper was not acted upon by The Office.

On October, 24, 2006, the application issued as U.S. Patent 7,124,981 to inventor Dean Parham.

On July 8, 2009, applicant's filed statements to supplement said petition filed on October 30, 2009 in accordance with 37 CFR 1.324. The statements filed on July 8, 2009, include;

1) Statement of Error without Deceptive Intent by omitted inventor Peter Beardsley;

2) Statement of Currently Named Inventor, Dean Parham, agreeing to add Peter Beardsley as an inventor;

3) Recordation of Assignment and Assignment by Dean Parham to The Boeing Company with a Doc. Date of February 28, 2003;

4) Recordation of Assignment by Dean Parham and Peter Beardsley to Assignees The Boeing Company and Rolls-Royce PLC. with a Doc. Date of September 22, 2003;

5) An Assignment by Dean Parham to The Boeing Company signed October 21, 2003;

6) An Assignment by Peter Beardsley to Rolls-Royce PLC. signed September 22, 2003;

7) A Statement under 37 CFR 3.73(b) for The Boeing Company as an assignee of less than the entire right, title and interest by the Patent Portfolio Manager Euclid Woo signed on June 15, 2009;

8) A statement of Assignee, The Boeing Company, agreeing to the addition of inventors pursuant to 37 CFR 324(b)(3) by the Patent Portfolio Manager Euclid Woo signed on June 15, 2009;

9) A Statement under 37 CFR 3.73(b) for Rolls-Royce PLC. as an assignee of less than the entire right, title and interest by the Head of Intellectual Property, Mr. Mike Gunn signed on June 15, 2009;

10) A statement of Assignee, Rolls-Royce PLC., agreeing to the addition of inventors pursuant to 37 CFR 324(b) (3). by the Head of Intellectual Property, Mr. Mike Gunn signed on June 15, 2009; and

11) A Power of Attorney on September 2, 2008 by Rolls-Royce PLC. and signed by Director.

The petitioner requests that the inventorship of U.S. Application 10/379,029, now U.S. Patent 7,124,981, be changed to Dean Parham and Peter Beardsley. Based on the petition filed on October 24, 2003, supplemented on July 8, 2009 and renewed on July 29, 2009, the inventorship of said application and patent has been changed in accordance with 37 CFR 1.324 to Dean Parham and Peter Beardsley.

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

Michael R. Mansen
Supervisory Patent Examiner
Art Unit 3644
Patent Examining Group 3600

INTELLECTUAL PROPERTY MANAGEMENT
BOEING MANAGEMENT COMPANY
P.O. BOX 2515
MAIL CODE 110-SD54
SEAL BEACH, CA 90740-1515

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

King & Schickli, PLLC
247 North Broadway
Lexington, KY 40507

COPY MAILED

SEP 02 2008

In re Application of	:	
Miron Abramovici et al.	:	
Application No. 10/379,043	:	DECISION ON PETITION
Filed: March 4, 2003	:	TO WITHDRAW
Attorney Docket No. 487-014	:	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 31, 2008.

The request is **moot because a revocation of power of attorney has been previously filed**.

A review of the file record indicates that the power of attorney to Patrick M. Torre and all attorneys/agents associated with customer number 01009 has been revoked by the assignee of the patent application on August 26, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Medelsohn & Associates, P.C.
1500 John F. Kennedy Boulevard
Suite 405
Philadelphia, PA 19102

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
10/379,043	03/04/2003	Miron Abramovici	Abramovici 29-22-1-6

CONFIRMATION NO. 6844

POWER OF ATTORNEY NOTICE

1009
KING & SCHICKLI, PLLC
247 NORTH BROADWAY
LEXINGTON, KY 40507

OC000000031848920

Date Mailed: 09/02/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/26/2008.

- 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).

/kainabinet/

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
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

MENDELSOHN, DRUCKER, & ASSOCIATES, P.C.
1500 JOHN F. KENNEDY BLVD., SUITE 405
PHILADELPHIA, PA 19102

Mail Date: 05/19/2010

Applicant	: Miron Abramovici	: DECISION ON REQUEST FOR
Patent Number	: 7650545	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/379,043	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/04/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **2060** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HENKEL CORPORATION
THE TRIAD, SUITE 200
2200 RENAISSANCE BLVD.
GULPH MILLS, PA 19406

COPY MAILED

SEP 09 2005

OFFICE OF PETITIONS

In re Application of	:	
Thomas Holderbaum et al	:	
Application No. 10/379,073	:	ON PETITION
Filed: March 3, 2003	:	
Attorney Docket No. H 5506 US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 28, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed December 3, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on March 4, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of December 3, 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 1751.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW Dec-06

KLARQUIST SPARKMAN LLP
121 S.W. SALMON STREET
SUITE 1600
PORTLAND OR 97204

COPY MAILED
DEC 12 2006
OFFICE OF PETITIONS

In re Application of	:	
Srinivasan et al.	:	DECISION ON PETITION TO
Application No. 10/379,079	:	WITHDRAW HOLDING OF
Filed: 3 March, 2003	:	ABANDONMENT
Atty Docket No. 3382-64704	:	

This is a decision on the "PETITION UNDER 37 CFR § 1.181 TO WITHDRAW HOLDING OF ABANDONMENT" filed on 10 October, 2006.

The petition is **GRANTED**.

A Notice of Abandonment was mailed on 10 August, 2006, stating that the application was abandoned for failure to timely file a proper reply to the non-final Office action mailed on 24 January, 2006.

Petitioners assert that a timely reply was filed.

A review of the record reveals that petitioners are correct, in that an amendment, including a one (1) month extension of time, were timely filed on 30 May, 2006 (certificate of mailing date 23 May, 2006).

It is noted that the reply filed on 30 May, 2006, was a timely and proper response to the Notice mailed on 24 January, 2006. As such, there is no abandonment in fact. The Office regrets the error.

The holding of abandonment is withdrawn. The Notice of Abandonment is vacated.

The application is referred to Technology Center Art Unit 2621 for further processing.

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

D Wood
Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

KLARQUIST SPARKMAN LLP
121 S.W. SALMON STREET
SUITE 1600
PORTLAND, OR 97204

Mail Date: 04/21/2010

Applicant	: Sridhar Srinivasan	: DECISION ON REQUEST FOR
Patent Number	: 7609767	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/379,079	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/03/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1620** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SUGHRUE MION PLLC
2100 PENNSYLVANIA AVENUE NW
SUITE 800
WASHINGTON, DC 20037

COPY MAILED

NOV 0 4 2005

OFFICE OF PETITIONS

In re Application of	:
Satoshi Higuchi et al	:
Application No. 10/379,081	: DECISION GRANTING PETITION
Filed: March 5, 2003	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. Q73333	:

This is a decision on the petition, filed November 3, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

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

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

This matter is being referred to Technology Center AU 1774 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment and Information Disclosure Statement.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

OBLON SPIVAK McCLELLAND
MAIER & NEUSTADT PC
1940 DUKE STREET
ALEXANDRIA, VA 22314

COPY MAILED

SEP 15 2004

OFFICE OF PETITIONS

In re Application of
Marcel Sanchez
Application No. 10/379,083
Filed: March 5, 2003
Attorney Docket No. 234070US26

DECISION GRANTING PETITION
UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition, filed September 14, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 4, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 3751 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

MAILED

AUG 3 1 2004

TECHNOLOGY CENTER 2100

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

GEORGE B. F. YEE
TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

In re Application of: Kanai, et al.
Application No. 10/379,087
Filed: March 3, 2003
For: DISK CONTROL DEVICE AND CONTROL METHOD THEREOF

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, filed on May 26, 2004.

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 has been granted accelerated examination in accordance with M.P.E.P. §708.02, Section VIII. Since the application has been 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
703-308-0885

BLJ: 8/31/04

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

COPY MAILED

MAR 1 0 2005

OFFICE OF PETITIONS

In re Application of
Somasundaram, Baskar
Application No. 10/379,122
Filed: March 4, 2003
Attorney Docket No. 132136/14175US01

DECISION GRANTING PETITION
UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed February 8, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional Application No. 10/065,866, filed November 26, 2002, as set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

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

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

The instant pending application was filed on March 4, 2003, and was pending at the time of filing of the instant petition. A reference to the above-noted, prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(2)(iii).

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

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

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

Any inquiries concerning this decision may be directed to Paralegal Liana Chase at (571) 272-3282.

This matter is being referred to Technology Center Art Unit 3673 for appropriate action on the amendment filed February 8, 2005, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the above-noted, prior-filed nonprovisional application.

Frances Hicks

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

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COOK, ALEX, MCFARRON, MANZO,
CUMMINGS & MEHLER, LTD.
SUITE 2850
200 WEST ADAMS STREET
CHICAGO IL 60606

COPY MAILED

MAR 2 0 2007

OFFICE OF PETITIONS

In re Application of	:	
Shunpei Yamazaki et al	:	
Application No. 10/379,123	:	ON PETITION
Filed: March 4, 2003	:	
Attorney Docket No. 0553-0353	:	

This is a decision on the petition, filed March 19, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on December 27, 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 2879 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).

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

Morrison & Foerster LLP
425 Market Street
San Francisco, CA 94105-2482

MAILED

NOV 19 2004

Technology Center 2100

In re Application of:
Michael NICOLAIDIS, et al.
Application No. 10/379,126
Filed: March 3, 2003
For: PROGRAMMABLE TEST FOR MEMORIES

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request For Withdrawal As Attorney Under 37 CFR § 1.36 and 0.40(c) filed August 22, 2003.

A Revocation And Substitution Of Power Of Attorney Under 37 CFR § 1.36 was filed on September 25, 2003. The Power Of Attorney revoked all prior Powers Of Attorney and appointed Erwin J. Basinski as the attorney of record of the instant application. The Power of Attorney of September 25, 2003 was accepted. Accordingly, all communications from the U.S. Patent and Trademark Office to applicant are to be conducted by Erwin J. Basinski, et al.

For the above stated reasons, the request is **DISMISSED AS MOOT**.

No further communication to you regarding this application will be made.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JJGJr: 06-03

Paper No: 6

ROBERT V. VICKERS
FAY, SHARPE, FAGAN,
MINNICH & MCKEE
SEVENTH FLOOR
1100 SUPERIOR AVENUE
CLEVELAND OH 44114-2579

COPY MAILED
JUN 2 5 2003
OFFICE OF PETITIONS

In re Application of	:	
Hostetler	:	
Application No. 10/379,129	:	DECISION ON PETITION
Filed: 4 March, 2003	:	
Attorney Docket No. RBEE 2 12526-1-1	:	

This is a decision on the petition filed on 30 May (supplemented via FAX on 24 June), 2003, requesting that page 8 of the application (description and claims), previously omitted from the application papers as filed, be accorded a filing date of 4 March, 2003, under 37 C.F.R. §1.53.

The petition is **DISMISSED**.

A review of the application file reveals that:

- the instant application:

  --was filed as a continuation patent application under 37 C.F.R. §1.53(b)(1) of and claiming benefit from Application 09/888,994 (filed on 25 June, 2001); and,

  --while reciting a claim to that parentage, does not incorporate by reference the submission of that parent application;

- was filed without page 8 of the specification (description and claims) of the instant application;

- a Notice of Omitted Items (Filing Date Granted) was mailed by the Office on 5 May, 2003, indicating that Petitioner had failed to include page 8 of the specification (description and claims) of the application upon filing and that Petitioner either could

accept the filing date of 4 March, 2003, without page 8 of the specification (description and claims) of the application, or submit within two (2) months page 8 of the specification (description and claims) of the application with a petition for its inclusion and accept the date of filing of that submission and petition;

- the instant petition, filed with page 8 of the specification (description and claims) provides no documentary support for the petition, and states only that "Applicant has enclosed herein a copy of page 8 [of the specification (description and claims)], which is believed to have been filed with the application. Applicant requests that page 8 [of the specification (description and claims)] be included with the above-identified patent application and that the patent application be accorded the filing date of March 4, 2003;"

- in his supplementary submission of 24 June, 2003, Petitioner indicates that--if page of the specification (description and claims) cannot be accorded a filing date of 4 March, 2003--he wishes to retain that filing date without page 8 of the specification (description and claims).

While the Office does not doubt that the specification and claim(s)--including page 8--were prepared for submittal on or about 4 March, 2003, the mere fact that they were prepared and ready for mailing at Counsel's office does not necessarily mean that they were included with the application papers filed with the Office on 4 March, 2003.[1]

Accordingly, the Office cannot grant a 4 March, 2003, filing date for page 8 of the specification of the instant application and the petition is **dismissed**.

Because the instant petition was not occasioned by an error by the Office, the petition fee will be retained.

To avoid delays in the examination of the application, an amendment renumbering the pages in consecutive order and canceling the incomplete sentences on pages 7 and 9 should be filed prior to the first Office action.

---

[1] MPEP § 513 provides in pertinent part as follows:

* * *

Where there is a dispute as to the contents of correspondence submitted to the Office (e.g., an applicant asserts that three sheets of drawings were submitted under 37 C.F.R. §1.10 with an application, but the Office records indicate receipt of only two sheets of drawings with the application), an applicant may not rely upon the provisions of 37 C.F.R. §1.10(e) to establish what document(s) and/or fee(s) were filed in the Office with such correspondence. Rather, where the records of the Office (e.g., the file of the application) contain any document(s) or fee(s) corresponding to the contents of the correspondence at issue, the Office will rely upon its official record of the contents of such correspondence in absence of convincing evidence (e.g., a postcard receipt under MPEP §503 containing specific itemization of the document(s) or fee(s) purported to have been filed with the correspondence at issue) that the Office received and misplaced any document(s) or fee(s) that is not among the official records of the Office.

Application No. 09/868,422

The application is being returned to Technology Center Art Unit 1742 with the presently accorded fling date of 4 March, 2003, *without* page 8 of the specification (description and claims) 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
www.uspto.gov

Ropes & Gray, LLP
Patent Docketing
One International Place
Boston, Massachusetts 02110

COPY MAILED
MAR 18 2010

In re Patent No. 7,435,412	:
Bowdish et al.	: DECISION UPON REMAND AND
Issue Date: October 14,2008	: RECONSIDERATION OF
Application No. 10/379,151	: PATENT TERM ADJUSTMENT
Filed: March 5, 2003	: AND NOTICE OF INTENT
Attorney Docket No. Alex PO2-060	: TO ISSUE CERTIFICATE OF CORRECTION
Title: Chronic Lymphocyctic Leukemia Cell Line	:

This is a decision following remand from the District Court for the District of Columbia regarding the patent term adjustment indicated on the above-identified patent. The Court remanded this matter to the U.S. Patent and Trademark Office for recalculation of the patent term adjustment in accordance with the decision in Wyeth & Elan Pharma Int'l Ltd. v. Kappos, 591 F.3d 1364 (Fed. Cir. 2010).

The patent term adjustment indicated on the above-identified patent has been recalculated as directed by the Court. The term of the above-identified patent is extended or adjusted by one thousand and twelve (1012) days.

The application is being forwarded to the Certificates Branch for issuance of a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by one thousand and twelve (1012) days.

Telephone inquiries specific to this matter should be directed to Senior Legal Advisor, Kery A. Fries at (571) 272-7757.

/Kery A. Fries/

Kery A. Fries

Senior Legal Advisor Attorney
Office of Patent Legal Administration
Office of Associate Commissioner
For Patent Examination Policy

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,435,412 B2

DATED : **Oct. 10, 2008** **DRAFT**

INVENTOR(S) : Bowdish 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 343days

Delete the phrase "by 343 days" and insert – by 1012 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,435,412 B2

DATED : **Oct. 14, 2008** **DRAFT**

INVENTOR(S) : Bowdish 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 343days

Delete the phrase "by 343 days" and insert – by 1012 days--

Day : Wednesday

PALM INTRANET

Date: 3/17/2010
Time: 12:15:53

PTA Calculations for Application: 10/379151

Application Filing Date:	03/04/2003	PTO Delay (PTO):	955
Issue Date of Patent:	10/14/2008	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	612
Post-Issue Petitions:	0	Total PTA (days):	1012
PTO Delay Adjustment:	669		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
130	03/17/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	669		
122.5	09/24/2008	PTA 36 MONTHS	263		
122	10/14/2008	PATENT ISSUE DATE USED IN PTA CALCULATION			
121	09/23/2008	DISPATCH TO FDC			
120	09/23/2008	TC RETURN TO PUBS			
116	09/11/2008	EXPORT TO FINAL DATA CAPTURE			
115	09/10/2008	DISPATCH TO FDC			
114	09/10/2008	APPLICATION IS CONSIDERED READY FOR ISSUE			
113	09/04/2008	ISSUE FEE PAYMENT VERIFIED			
112	09/10/2008	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
111	09/09/2008	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
110	09/08/2008	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
109	09/05/2008	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
108	09/04/2008	ISSUE FEE PAYMENT RECEIVED			
107	08/19/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
106	08/19/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
105	08/19/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		21	110
104	08/18/2008	FINISHED INITIAL DATA CAPTURE			
103	07/14/2008	RECEIPT INTO PUBS			

102	06/20/2008	SEQUENCE FORWARDED TO PUBS ON TAPE			
101	06/19/2008	RECEIPT INTO PUBS			
100	06/09/2008	EXPORT TO INITIAL DATA CAPTURE			
99	06/04/2008	MAIL NOTICE OF ALLOWANCE			
98	06/03/2008	ISSUE REVISION COMPLETED			
97	04/30/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
96	05/30/2008	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
95	05/30/2008	DOCUMENT VERIFICATION			
94	05/30/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
93	05/30/2008	CASE DOCKETED TO EXAMINER IN GAU			
92	05/27/2008	NOTICE OF ALLOWABILITY			
91	04/30/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
90	04/22/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
89	03/31/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
88	03/07/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
86	04/22/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
85	05/16/2008	DATE FORWARDED TO EXAMINER			
84	05/08/2008	AMENDMENT AFTER FINAL REJECTION			
83	04/30/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
82	04/22/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
81	03/31/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
80	03/07/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		92	71
79	03/19/2008	MAIL FINAL REJECTION (PTOL - 326)			
78	03/07/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
77	03/04/2008	FINAL REJECTION			
76	12/26/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
75	10/15/2007	INFORMATION DISCLOSURE STATEMENT			

		CONSIDERED			
72	01/09/2008	DATE FORWARDED TO EXAMINER			
71	12/06/2007	RESPONSE AFTER NON-FINAL ACTION			
70	12/26/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
69	10/15/2007	REFERENCE CAPTURE ON IDS			
68	10/15/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
66	10/15/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
65	09/24/2007	MAIL NON-FINAL REJECTION			
64	09/17/2007	NON-FINAL REJECTION			
63	07/02/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
62	08/10/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
61	08/20/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
60	08/20/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
59	08/20/2007	REFERENCE CAPTURE ON IDS			
58	08/20/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		49	54
57	08/07/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
56	08/10/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
55	07/10/2007	DATE FORWARDED TO EXAMINER			
54	07/02/2007	RESPONSE AFTER NON-FINAL ACTION		4	51
53	07/02/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
52	03/08/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
51	03/28/2007	MAIL NON-FINAL REJECTION			
50.7	03/08/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		69	46
50	03/08/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
49	03/19/2007	NON-FINAL REJECTION			
48	10/02/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			

47	01/12/2007	DATE FORWARDED TO EXAMINER			
46	12/29/2006	RESPONSE AFTER NON-FINAL ACTION		77	43
45	12/29/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
44.7	10/02/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
44	10/02/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
43	07/13/2006	MAIL NON-FINAL REJECTION			
42	07/10/2006	NON-FINAL REJECTION			
41	05/19/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
40	05/19/2006	REFERENCE CAPTURE ON IDS			
39.7	05/19/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		22	37
39	05/19/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
38	05/04/2006	DATE FORWARDED TO EXAMINER			
37	04/27/2006	RESPONSE TO ELECTION / RESTRICTION FILED			
36	03/27/2006	MAIL RESTRICTION REQUIREMENT	692		-1
35	03/21/2006	REQUIREMENT FOR RESTRICTION / ELECTION			
34	11/04/2005	CORRESPONDENCE ADDRESS CHANGE			
33	11/07/2005	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
32	08/26/2005	NEW OR ADDITIONAL DRAWING FILED			
31	08/26/2005	PRELIMINARY AMENDMENT			
30	09/09/2005	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
29	06/28/2005	CASE DOCKETED TO EXAMINER IN GAU			
28	06/29/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
27	04/05/2004	PRELIMINARY AMENDMENT			
26	06/29/2004	CASE DOCKETED TO EXAMINER IN GAU			
25	06/02/2004	APPLICATION DISPATCHED FROM OIPE			
24	06/02/2004	APPLICATION IS NOW COMPLETE			
21	05/20/2004	APPLICANT HAS SUBMITTED NEW DRAWINGS TO CORRECT CORRECTED PAPERS PROBLEMS		278	5
19	04/05/2004	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
		A SET OF SYMBOLS AND PROCEDURES,			

18	04/05/2004	PROVIDED TO THE PTO ON A SET OF COMPUTER LISTINGS, THAT DESCRIBE IN			
17	04/05/2004	APPLICANT HAS SUBMITTED NEW DRAWINGS TO CORRECT CORRECTED PAPERS PROBLEMS			
16	04/13/2004	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
15	02/19/2004	CORRECTED PAPER			
13	06/24/2003	ADDITIONAL APPLICATION FILING FEES			
12	06/24/2003	SMALL ENTITY STATEMENT (37 CFR 1.27)			
11	06/24/2003	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
9	05/16/2003	PRE-EXAM OFFICE ACTION WITHDRAWN			
7	06/27/2003	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
6	06/27/2003	APPLICANT HAS SUBMITTED NEW DRAWINGS TO CORRECT CORRECTED PAPERS PROBLEMS			
5	05/16/2003	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
4	04/24/2003	CLEARED BY L&R (LARS)			
3	04/22/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
2	03/26/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	03/04/2003	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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

Back to OASIS | Home page

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DCM

AUG 4 2004

In re Application of	:	
Anthony J. Pellicone	:	
Serial Number: 10/379,166	:	PETITION UNDER
Filed: March 4, 2003	:	M.P.E.P.708.02 IV
For: CHEWABLE CARAMEL COMPOSITION	:	

This is in response to the petition filed November 5, 2003 requesting that the above-identified application be granted Special Status under Section 708.02 IV of the MPEP and 37 CFR 1.102(c) (**no fee required**).

The request for Special Status considered under Section 708.02 IV of the MPEP is granted because criteria under 37 CFR 1.102(c) has been met.

Accordingly the petition is **GRANTED.**

Marian C. Knode

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

ROBERT M. SKOLNIK
353 Monmouth Road
PO Box 22
West Long Branch, NJ 07764-0022

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 3

HAUGEN LAW FIRM
SUITE 1130 - TCF TOWER
121 SOUTH EIGHTH STREET
MINNEAPOLIS MN 55402

MAILED

JUN 0 4 2003

Technology Center 2600

In re Application of:
ELLIS, CHRIST G.
Application No. 10/379,185
Filed: March 3, 2003
For: APPARATUS AND METHOD FOR VEHICLE COUNTING, TRACKING AND TAGGING

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition to make special filed on March 3, 2003 under MPEP 708.02 (IV), applicant's age.

A petition to make special under MPEP 708.02, IV, must show that petitioner is 65 years of age, or more. Acceptable evidence includes a birth certificate, copy of a driver's license, or simply a statement by the applicant. No fee is required.

The petition includes a copy of the inventor's birth certificate indicating that he is more than sixty five years old. Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant.

The application will be forwarded to the examiner for expedited action.

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
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

KONDZELLA AND CYR
PONDVIEW PLAZA, SUITE 114
5850 OPUS PARKWAY
MINNETONKA MN 55343

COPY MAILED

AUG 16 2005

OFFICE OF PETITIONS

In re Application of
Bruce Johnson
Application No. 10/379,190
Filed: March 3, 2003
Attorney Docket Number: 34059.2
Title: APPARATUS AND METHOD FOR TILTING AND TRIMMING A BOAT MOTOR

DECISION DISMISSING PETITION UNDER 37 C.F.R. §1.137(a)

This is a decision on the petition filed July 15, 2005, pursuant to 37 C.F.R. §1.137(a)[1], to revive the above-identified application.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR §1.113 in a timely manner to the final Office action mailed October 15, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR §1.136(a) were obtained. Accordingly, the above-identified application became abandoned on January 16, 2005. A Notice of Abandonment was mailed on May 13, 2005.

Petitioner alleges that he never received the final Office action, as both the final Office action and the or the notice of abandonment were sent to the incorrect address. The electronic file has been reviewed, and it is clear that a Revocation of Power of Attorney with New Power of

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

(1) the required reply (in a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application; in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof);
(2) the petition fee;
(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable, and;
(4) a terminal disclaimer (and fee as set forth in §1.20(d)) required pursuant to paragraph (d) of this section.

Attorney and Change of Correspondence Address was received on July 22, 2004, but was not entered in a timely manner. As such, both the final Office action and the notice of abandonment were each improperly mailed to the former address of record.

Petitioner has met requirements (2) and (3) above. The fourth requirement does not apply.

Regarding the first requirement, the requirement has not been satisfied because Petitioner did not submit the required reply to the Office action. The required reply is the reply sufficient to have avoided abandonment, had such reply been timely filed[2]. In order for the application to be revived, petitioner must submit a reply which satisfies 37 C.F.R. §1.137(a)(1) (i.e., a Notice of Appeal (and fee required by law); an amendment that prima facie places the application in condition for allowance; a continuing application under 37 C.F.R. §1.53(b); a request for continuing examination under 37 C.F.R. §1.114, if applicable; or a 37 C.F.R. §1.129(a) submission, if applicable). The petition was accompanied by an amendment which has been considered by the Examiner, but it has not been deemed to place the application in condition for allowance. A copy of the advisory action has been enclosed.

Consequently, the petition is **DISMISSED**.

Any reply must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition Under 37 C.F.R. 1.137(a)" and should be accompanied by the required reply, as discussed above. This is not a final agency action within the meaning of 5 U.S.C 704.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski.

Any renewed petition may be submitted by mail[3], hand-delivery[4], or facsimile[5]. Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

The Revocation of Power of Attorney with New Power of Attorney and Change of Correspondence Address has been entered and made of record.

Paul Shanoski

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

---

2 See M.P.E.P. 711.03(c).

3 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

4 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.

5 (571) 273-8300- please note this is a central facsimile number. On July 15, 2005, the Central FAX Number changed to (571) 273-8300. To give customers time to adjust to the new Central FAX Number, faxes sent to the old number (703-872-9306) will be routed to the new number until September 15, 2005.

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

KONDZELLA AND CYR
PONDVIEW PLAZA, SUITE 114
5850 OPUS PARKWAY
MINNETONKA MN 55343

COPY MAILED

SEP 06 2005

OFFICE OF PETITIONS

In re Application of
Bruce Johnson
Application No. 10/379,190
Filed: March 3, 2003
Attorney Docket Number: 34059.2
Title: APPARATUS AND METHOD FOR TILTING AND TRIMMING A BOAT MOTOR

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

This is a decision on the renewed petition filed August 29, 2005, pursuant to 37 C.F.R. §1.137(a)[1], to revive the above-identified application.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR §1.113 in a timely manner to the final Office action mailed October 15, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR §1.136(a) were obtained. Accordingly, the above-identified application became abandoned on January 16, 2005. A Notice of Abandonment was mailed on May 13, 2005.

With the original petition submitted on July 15, 2005, Petitioner alleged that he never received the final Office action, as both the final Office action and notice of abandonment were sent to the incorrect address. The electronic file was reviewed, and it was clear that a Revocation of Power

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

(1) the required reply (in a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application; in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof);
(2) the petition fee;
(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable, and;
(4). a terminal disclaimer (and fee as set forth in §1.20(d)) required pursuant to paragraph (d) of this section.

of Attorney with New Power of Attorney and Change of Correspondence Address was received on July 22, 2004, but was not entered in a timely manner. As such, both the final Office action and the notice of abandonment were each improperly mailed to the former address of record.

The original petition was dismissed via the mailing of a decision on August 16, 2005, for failure to meet the first requirement above. Petitioner has submitted an amendment which was considered by the Examiner, but was not deemed to place the application in condition for allowance.

With this renewed petition, Petitioner has submitted a Notice of Appeal and the requisite fee.

The petition is **GRANTED**.

The Notice of Appeal filed on August 29, 2005, has been entered and made of record. Accordingly, **the two (2) month period for filing the Appeal Brief, in triplicate, accompanied by the fee required by law, runs from the mailing date of this decision**.

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

Paul Shanoski

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 07/16/05

TO SPE OF : ART UNIT 3636

SUBJECT : Request for Certificate of Correction on Patent No.: 10/379214 6883873

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

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

Thank You For Your Assistance

Angela Green
Certificates of Correction Branch
Tel. No. 703-305-9380 ext. 123

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

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

Comments:

DAVID DUNN
SUPERVISORY PATENT EXAMINER
SPE

3636
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

QUARLES & BRADY LLP
411 E. WISCONSIN AVENUE, SUITE 2040
MILWAUKEE WI 53202-4497

COPY MAILED

APR 0 2 2007

OFFICE OF PETITIONS

In re Application of
Howard J. **JACOB**, et al.
Application No. 10/379,217
Filed: March 4, 2003
Attorney Docket No. 650053.91665

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed September 21, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, February 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 May 18, 2006.

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

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., 8USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $510 extension of time fee submitted with the petition on September 21, 2006 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

The application file is being referred to Technology Center Art Unit 1633 for appropriate action by the Examiner in the normal course of business on the reply received.

Telephone inquiries concerning this decision should be directed to Monica Graves at (571) 272-7253.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 7

JAMES M. LEAS
37 BUTLER DRIVE
S. BURLINGTON, VT 05403

COPY MAILED

AUG 29 2003

OFFICE OF PETITIONS

In re Application of	:	
Steven Willard Arms et al	:	
Application No. 10/379,224	:	DECISION DISMISSING
Filed: March 5, 2003	:	PETITION
Attorney Docket No. 115-004	:	

This is a decision on the paper styled "Request to Correct Filing Date" filed July 16, 2003, requesting that the above-identified application be accorded a filing date of March 4, 2003, rather than the presently accorded filing date of March 5, 2003.

Applicants request the earlier filing date on the basis that the application was purportedly deposited with the U.S. Postal Service (USPS) as Express Mail on March 4, 2003, pursuant to the requirements of 37 CFR 1.10. In support, the petition is accompanied by a copy of the USPS Track/Confirm system information showing that the package bearing Express Mail label No. EO900558575US was accepted on March 4, 2003.

Paragraph (a) of 37 CFR 1.10 states that:

> Any correspondence received by the U.S. Patent and Trademark Office (USPTO) that was delivered by the "Express Mail Post Office to Addressee" service of the United States Postal Service (USPS) will be considered filed with the USPTO on the date of deposit with the USPS. <u>The date of deposit with the USPS is shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation</u>. 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).

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.

In this case, the copy of the USPS Track/Confirm system information showing that the package bearing Express Mail label No. EO900558575US was accepted on March 4, 2003. However, the petition fails to contain any showing that the number of the Express Mail mailing label was placed on the applicaton papers prior to mailing. A review of the fee transmittal sheet, the specification, and the drawings fails to indicate that the Express Mail label number was placed on any of the application papers prior to the original mailing. Therefore, applicant is not entitled to the benefits of 37 CFR 1.10.

In view of the above, the petition is <u>dismissed</u>.

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

The application is being returned to Initial Patent Examination Division with the presently accorded filing date of March 5, 2003.

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
www.uspto.gov

COPY MAILED
AUG 0 3 2006
OFFICE OF PETITIONS

DAVID T. YANG
MORRISON & FOERSTER LLP
555 WEST FIFTH STREET, 35TH FLOOR
LOS ANGELES, CA 90013

In re Application of	:	
Masaaki Okabayashi et al	:	
Application No. 10/379,268	:	ON PETITION
Filed: March 3, 2003	:	
Attorney Docket No. 393032036500		

This is a decision on the petition filed, July 26, 2006 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on July 5, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2185 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

WELLS ST. JOHN P.S.
601 W. FIRST AVENUE, SUITE 1300
SPOKANE, WA 99201

COPY MAILED

OCT 27 2004

OFFICE OF PETITIONS

In re Application of	:	
Todd A. Werpy, et al.	:	
Application No. 10/379,299	:	ON PETITION
Filed: March 3, 2003	:	
Attorney Docket No. BA4-084	:	

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

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

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

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

Retta Williams

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FULBRIGHT & JAWORSKI L.L.P.
600 CONGRESS AVENUE
SUITE 2400
AUSTIN, TX 78701

Mail Date: 04/21/2010

Applicant	: Ajit Mishra	: DECISION ON REQUEST FOR
Patent Number	: 7651507	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/379,342	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/03/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **552** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper 8

THOMAS HOXIE
NOVARTIS, CORPORATE INTELLECTUAL PROPERTY
ONE HEALTH PLAZA 430/2
EAST HANOVER NJ 07936-1080

COPY MAILED

SEP 2 9 2003

OFFICE OF PETITIONS

In re Application of
Petrus Herman Maria Van Der Putten
Application No. 10/379,343
Filed: March 4, 2003
Attorney Docket No. 4-21039/A/PCT

DECISION GRANTING PETITION

This is a decision on the petition filed May 29, 2003 under 37 CFR 1.53, in response to the "Notice to File Corrected Application Papers" mailed May 14, 2003.

The instant application was filed March 4, 2003 and a filing date was accorded. However, according to the Notice to File Corrected Application Papers, which also included a Notice of Omitted Items, it was indicated that the application papers submitted did not include Page 12 of the specification.

Petitioner asserts that Page 12 was among the papers filed on March 4, 2003, and submits a "legible" postcard receipt in evidence thereof. The postcard receipt, identifies the application and acknowledges, inter alia, that the specification consists of 24 pages and bears a United States Patent and Trademark Office date-stamp of March 4, 2003. Further, the postcard receipt lacks any notation of non-receipt of any item listed.

In view of the foregoing, the petition is **Granted.**

Additionally, in response to the Notice to File Corrected Application Papers mailed May 14, 2003, the following has been submitted with the instant petition; a substitute declaration, a statement that the content of the sequence listing information recorded in computer readable form is identical to the written sequence listing and a request in accordance with 37 CFR 1.821(e), to use the computer readable form filed in application no. 09/254,524 filed March 8, 1999 (now US Patent 6,566,580, issued 5/20/2003).

Given the basis for granting the petition, no petition fee is due and therein, $130.00 will be credited to deposit account no. 19-0134.

This application is being forwarded to the Office of Initial Patent Examination (OIPE) for further processing, using the application papers received in the Office on March 4, 2003 and the papers submitted on petition May 29, 2003.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 5/29/03 | 2 Serial/Patent # 10/379,343

	3 Please refund the following fee(s):	4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
	Extension of Time			$
	Notice of Appeal/Appeal			$
X	Petition	7	5/29/03	$ 130.00
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND $ 130.00

8 TO BE REFUNDED BY:

	Treasury Check
X	Credit Deposit A/C #:

9 19--01134

10 REASON:

	Overpayment
	Duplicate Payment
X	No Fee Due (Explanation):

no omitted item.

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: Patricia Parson-Ball TITLE: Attorney

SIGNATURE: Patricia Parson Ball PHONE: 305 4497

OFFICE: Petitions

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: Alicia Kelly DATE: 9/09/03

Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to:

Office of Finance
Refund Branch
Crystal Park One, Room 802B

FORM PTO 1577
(01/90)

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

Leydig Voit & Mayer, LTD
Two Prudential Plaza, Suite 4900
180 North Stetson Avenue
Chicago, IL 60601-6731

COPY MAILED

FEB 2 1 2007

OFFICE OF PETITIONS

In re Application of	:	
Joseph Vander Aa et al.	:	
Application No. 10/379,362	:	DECISION ON PETITION
Filed: March 4, 2003	:	TO WITHDRAW
Attorney Docket No. 55505.28	:	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 30, 2006.

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

A review of the file record indicates that the power of attorney to the attorneys and/or agents associated with Customer Number 23460 has been revoked by the assignee of the patent application on November 7, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

T. Williams
Terri Williams
Petitions Examiner
Office of Petitions

cc: **AGFA**
c/o Keating & Bennett, LLP
8180 Greensboro Drive
Suite 850
Mclean, VA 22102

UNITED STATES PATENT AND TRADEMARK OFFICE

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

062005

Docket Clerk
P.O. Drawer 800889
Dallas, TX 75380

SEP 0 8 2005

In re Application of:
Shu-Ing Ju et al.
Serial No.: 10/379,368
Filed: March 4, 2003
Attorney Docket No.: P05455

DECISION ON PETITION
TO WITHDRAW HOLDING
OF ABANDONMENT

This is a decision on the petition filed February 10, 2005, and resubmitted June 9, 2005, to withdraw the holding of abandonment in the above-identified application under 37 C.F.R. § 1.181.

The petition is **DISMISSED**.

The application was held abandoned for failure to timely file a response to the non-final Office action mailed March 12, 2004. A Notice of Abandonment was mailed on December 7, 2004.

Petitioner asserts that the Office action mailed on March 12, 2004 was not received. To support this assertion, petitioner provides a copy of the docket record in connection with the application showing that the Office action was not received or docketed.

A review of the file record indicates no irregularity in the mailing of the Office action, and in the absence of any irregularity there is a strong presumption that the Office action was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received at the correspondence address of record at the time the Office action was mailed. The showing required to establish the failure to receive an Office action must include a statement from the practitioner stating that the practitioner did not receive the Office action and attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received. A copy of the docket record where the non-received Office action would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See "Withdrawing the Holding of Abandonment When Office Actions Are Not Received" 1156 Official Gazette 53 (November 16, 1993) and M.P.E.P. § 711.03(c).

Pursuant to M.P.E.P. § 711.03(c), it is petitioner's burden to demonstrate that the Office action was not in fact received at the correspondence address of record at the time it was mailed. The petition lacks a statement attesting to the fact that a search of the file jacket and docket records

indicates that the Office action was not received. Also, the petition does not indicate that the accompanying copy of the docket report is where the Office action would have been entered had it been received.

Since petitioner has not made the requisite showing required under M.P.E.P. § 711.03(c), the holding of abandonment is proper and the petition cannot be granted at this time.

Any request for reconsideration of this decision must be submitted within two months of the date of this decision to be considered timely. Extensions of this time are available under 37 CFR 1.136(a).

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 Hien H. Phan, Special Programs Examiner, at (571) 272-1606.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JJGJR.: 06-06

Paper No: __

DOCKET CLERK
P.O. DRAWER 800889
DALLAS TX 75380

COPY MAILED

JUN 27 2006

OFFICE OF PETITIONS

In re Application of :
Ju, et al. :
Application No.: 10/379,368 :
Filing Date: 4 March, 2003 :
Attorney Docket No. P05455 :

DECISION

This is a decision on the petition filed on 14 November, 2005, and resubmitted on 4 April, 2006, to withdraw the holding of abandonment and considered under 37 C.F.R. §1.181.

For the reasons set forth below the petition as considered under 37 C.F.R. §1.181 is **DISMISSED**.

NOTES:

(1) Any petition (and fee) for reconsideration of this decision must be submitted within two (2) months from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted.

(It is noted, however, that Petitioner may be unable to present a satisfactory showing to support a petition under 37 C.F.R. §1.181, and **Petitioner's only alternative is to file a petition under 37 C.F.R. §1.137(b)**.)

(2) Thereafter, there will be no further reconsideration of this matter.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the non-final Office action mailed on 12 March, 2004, with reply due absent extension of time on or before Monday, 14 June, 2004;

- the instant application went abandoned after midnight 12 June, 2004;

- the Office mailed the Notice of Abandonment on 7 December, 2004;

- on 15 February, 2005–eight (8) months after the date of abandonment–Petitioner filed the original petition seeking withdrawal of the holding of abandonment (resubmitted on 9 June and 23 August, 2005), which was dismissed by the Group Director (for failure to make the showing required) on 8 September, 2005;

- the instant petition was filed on 14 November, 2005 (over an 8 November, 2005, certificate of mailing) and resubmitted on 4 April, 2006;

- Petitioner might have consulted the Manual of Patent Examining Procedure (MPEP) and specifically the commentary at MPEP §711.03(c) and the regulations at 37 C.F.R. §1.181–specifically the timing requirements–before addressing this matter, and Petitioner's apparent failure to do so is fatal to his request, such that his only recourse is to obtain revival of the application, as indicated by the Group Director in his decision of 8 September, 2005, under the provisions of 37 C.F.R. §1.137(b);

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

---

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

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

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.

Monitoring of the status of applications on Private PAIR will inform one's management of application responses and provide an indication when mailings of Office actions should be expected.

Petitioner ignored the requirement that the petition herein be filed within two months of the action complained of. (See: 37 C.F.R. §1.181.).

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]

(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]

[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

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]))

Withdrawal of the
Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[8]

Further, the commentary at MPEP §711.03(c) provides:

---

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.

[8] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

* * *

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

In *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of *Delgar*, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of *Delgar* is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133). To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action.

* **

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

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

1988). (Emphasis supplied.)

* * *

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

As of this writing–after multiple submissions–Petitioner has failed to make the statements and showings set out as guidance in the commentary of the MPEP.

Thus, as of this writing Petitioner appears not to have satisfied and not to be able to satisfy the showing or the timeliness requirements described above.

CONCLUSION

Because it appears that Petitioner has not satisfied the burdens set forth in Delgar v. Schulyer, the petition as considered under 37 C.F.R. §1.181 hereby is **dismissed**.

ALTERNATIVE VENUE

Petitioner's only alternative to irretrievable abandonment now is a petition alleging unintentional delay under 37 C.F.R. §1.137(b).[9]

Petitioner may wish to file such a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay. (See: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c)

A petition to revive on the grounds of unintentional delay must be filed promptly and such petition must be accompanied by the reply (the amendment), the petition fee, and a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional." (The statement is in the form available online.)

And failure to file timely the petition, fee, reply and make the statement of unintentional delay may be a demonstration of intentional delay.

Further correspondence with respect to this matter should be addressed as follows:[10]

---

[9] The regulations at 37 C.F.R. §1.183 sets forth that waiver of the rules is "subject to such other requirements as may be imposed."

[10] On July 15, 2005, the Central Facsimile (FAX) Number changed to (571) 273-8300. The old FAX number no longer is in service and (571) 273-8300 will be the only facsimile number recognized for centralized delivery. (For further information. see: http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/cfax062005.pdf .)

By mail: Commissioner for Patents[11]
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: IFW Formal Filings
(571) 273-8300
ATTN.: Office of Petitions

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

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

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

[11] To determine the appropriate addresses for other subject-specific correspondence, refer to the USPTO Web site at www.uspto.gov.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JJGJR.: 07-07

Paper No: __

DOCKET CLERK
P.O. DRAWER 800889
DALLAS TX 75380

COPY MAILED

JUL 2 4 2007

OFFICE OF PETITIONS

In re Application of	:	
Ju, et al.	:	DECISION
Application No.: 10/379,368	:	
Filing Date: 4 March, 2003	:	
Attorney Docket No. P05455	:	

This is a decision on the renewed petition filed on 10 July, 2006, to withdraw the holding of abandonment and considered under 37 C.F.R. §1.181.

The Office regrets the delay in addressing this matter, however, the petition was not presented to the attorneys in the Office of Petitions until this writing.

For the reasons set forth below the petition as considered under 37 C.F.R. §1.181 is **GRANTED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the non-final Office action mailed on 12 March, 2004, with reply due absent extension of time on or before Monday, 14 June, 2004;
- the instant application went abandoned after midnight 12 June, 2004;
- the Office mailed the Notice of Abandonment on 7 December, 2004;

- on either on 10 or 15 February, 2005 (the record is in conflict as to this date), eight (8) months after the date of abandonment and about two months after Notice thereof, Petitioner filed over a 7 February, 2005, certificate of mailing the original petition seeking withdrawal of the holding of abandonment (resubmitted on 9 June and 23 August, 2005), which was dismissed on 8 September, 2005, by the Group Director for failure to make the showing required;

- the original petition filed in the Office of Petitions was filed on 14 November, 2005 (over an 8 November, 2005, certificate of mailing) and resubmitted on 4 April, 2006, and dismissed on 27 June, 2006, for failure to satisfy the showing requirements and a lack of clarity as to the timeliness issue;

- Petitioner appears now to have made the showing required as to non-receipt and as to timeliness;

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

---

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

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

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

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

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

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

(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension,

Monitoring of the status of applications on Private PAIR will inform one's management of application responses and provide an indication when mailings of Office actions should be expected.

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[3]

Delays in responding properly raise the question whether delays are unavoidable.[4] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing

---

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]

[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).

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]))

Withdrawal of the
Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[8]

Further, the commentary at MPEP §711.03(c) provides:

* * *

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

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

---

[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).

> practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action.
>
> * **
>
> The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).
>
> Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988). (Emphasis supplied.)
>
> * * *

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

Petitioner appears now to have satisfied the showing and timeliness requirements described above.

CONCLUSION

Because it appears that Petitioner has now satisfied the burdens set forth in Delgar v. Schulyer, the petition as considered under 37 C.F.R. §1.181 hereby is **granted** and the 7 December, 2004, Notice of Abandonment is **vacated**.

The application is released to Technology Center 2800 for further processing in due course–to include the re-mailing of the Office action of 12 March, 2004.

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

Encl.

[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

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.
10/379,368	03/04/2003	Shu-Ing Ju	P05455	4796

7590 03/12/2004

Docket Clerk
P.O. Drawer 800889
Dallas, TX 75380

EXAMINER
LE, DINH THANH

ART UNIT	PAPER NUMBER
2816	

DATE MAILED: 03/12/2004

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

Office Action Summary	Application No.	Applicant(s)	
	10/379,368	JU ET AL.	
	Examiner	Art Unit	
	DINH T. LE	2816	

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

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 1-20 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) 1-20 is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ 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:

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)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

DETAILED ACTION

Specification

The specification has been checked to the extent necessary to determine the presence of all possible minor errors. However, the applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: the recitation "bandwidth for each of the two or more adjustable gain circuits is adjusted by switching capacitances into or out of one or more of an input path and a feedback loop for an amplifier" in claims 3 and 10 and "adjustable gain circuit integral with a filter" in claims 6, 13 and 15 lacks antecedent basis.

Claim Rejections

Claim Rejections - 35 USC § 112

Claims 3-6, 10-13, 15 and 17-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Correction or clarification is required.

In claim 3, it is not understood where the "capacitances", "input path" and "feedback loop" come from and how the capacitances can be switched since no switching means is recited.

The recitation "or" on line 2 is indefinite because it does not positively recite the claimed invention. The same is true for claims 4-5 and 10-12.

In claim 6, it is unclear how the adjustable gain circuit can be "integral" with a filter and how this limitation is read on the preferred embodiment or seen on the drawings. The same is true for claim 15. Also, the recitation "filter" on lines 5 and 7 is confusing because it is unclear if this is an additional "filter" or a further recitation "filters" on line 3 of claim 1. The same is true for claim 13.

In claim 17, the recitation "may be" is indefinite because it does not positively recite the claimed invention.

In claim 18, it is unclear how the first switched capacitance can be "switched out" of the input path and the second switched capacitance can selectively switched into the feedback loop since they are not connected to anything. The same is true for claim 19.

The remaining claims are dependent from the above claims and therefore also considered indefinite.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-18 are rejected under 35 USC 103 (a) as being unpatentable over Kang et al (US 6,498,927) in view of Giebel (US 6,073,848) and further in view of Polonen et al (US 5,293,139).

Kang discloses in Figure 8 a circuit comprising:

- two more adjustable gain circuits (836, 862) coupled to filters (836, 852); and
- a controller (894) for adjusting each adjustable gain circuit (830, 862) to generate gain control signals sequentially setting gain for each adjustable gain circuit (830, 862).

However, Kang et al does not disclose that the controller samples the outputs of each adjustable gain circuit and sets gain for each gain circuit backward from a last adjustable gain circuit, each gain circuit comprises two or more adjustable gain circuits and the gain of the gain circuit is adjusted by switching capacitances into or out of one or more of output path and a feedback loop of the amplifier. Giebel teaches in Figure 2-4 an AGC circuit comprising amplifier stages (27, 29, 31, 33), a controller (35, 83, 79) for selectively sampling each output of the stages to quickly adjust overall gain that would improve response time of the amplifier, see the Abstract. Polonen et al teaches in Figure 7 an amplifier comprising an operational amplifier, capacitors (CIN1, CFB1) and switched capacitors (CIN2, CFB2) for providing precise gains, see column 6, lines 15-20. It would have been obvious to a person having skill in the art at the time the invention was made to employ the controller taught by Giebel and the switched capacitor amplifier taught by Polonen in the circuit of Kang et al for the purpose of reducing the response time of the system and providing precise gains. As shown in Figure 2 of Giebel, many amplifiers are cascaded in order to give more gain for the stage, and the amplifier stages of Kang et al and Giebel can be adjusted randomly,

sequentially in forward direction or backward direction depending upon a particular application. Thus, adding more gain stages for each amplifier of Kang et al and selecting the gain tuning pattern for the amplifiers would have been obvious and is considered to be a matter of design expedient for an engineer.

With regard to claim 4., since the gain of the amplifier circuit of Polonen et al is determined by the capacitance values of the capacitors, selecting the switched capacitances that are multiples of the fixed capacitances for providing a predetermined gain would be obvious at the time of the invention.

Allowable Subject Matter

Claims 19-20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The claims would be allowable over the prior art of record because the prior art does not show the third fixed capacitance and the thirds switched capacitance.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DINH T. LE whose telephone number is (571) 272-1745. The examiner can normally be reached on Monday-Friday (8AM-7PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, TIMOTHY CALLAHAN can be reached at (571) 272-1740.

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).

DINH LE
Primary Examiner

February 25, 2004

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.
10/379,368	03/04/2003	Shu-Ing Ju	P05455	4796

7590 03/12/2004

Docket Clerk
P.O. Drawer 800889
Dallas, TX 75380

EXAMINER
LE, DINH THANH

ART UNIT	PAPER NUMBER
2816	

DATE MAILED: 03/12/2004

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

Office Action Summary	Application No.	Applicant(s)	
	10/379,368	JU ET AL.	
	Examiner	Art Unit	
	DINH T. LE	2816	

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

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 1-20 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) 1-20 is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ 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:

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)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

DETAILED ACTION

Specification

The specification has been checked to the extent necessary to determine the presence of all possible minor errors. However, the applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: the recitation "bandwidth for each of the two or more adjustable gain circuits is adjusted by switching capacitances into or out of one or more of an input path and a feedback loop for an amplifier" in claims 3 and 10 and "adjustable gain circuit integral with a filter" in claims 6, 13 and 15 lacks antecedent basis.

Claim Rejections

Claim Rejections - 35 USC § 112

Claims 3-6, 10-13, 15 and 17-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Correction or clarification is required.

In claim 3, it is not understood where the "capacitances", "input path" and "feedback loop" come from and how the capacitances can be switched since no switching means is recited.

The recitation "or" on line 2 is indefinite because it does not positively recite the claimed invention. The same is true for claims 4-5 and 10-12.

In claim 6, it is unclear how the adjustable gain circuit can be "integral" with a filter and how this limitation is read on the preferred embodiment or seen on the drawings. The same is true for claim 15. Also, the recitation "filter" on lines 5 and 7 is confusing because it is unclear if this is an additional "filter" or a further recitation "filters" on line 3 of claim 1. The same is true for claim 13.

In claim 17, the recitation "may be" is indefinite because it does not positively recite the claimed invention.

In claim 18, it is unclear how the first switched capacitance can be "switched out" of the input path and the second switched capacitance can selectively switched into the feedback loop since they are not connected to anything. The same is true for claim 19.

The remaining claims are dependent from the above claims and therefore also considered indefinite.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-18 are rejected under 35 USC 103 (a) as being unpatentable over Kang et al (US 6,498,927) in view of Giebel (US 6,073,848) and further in view of Polonen et al (US 5,293,139).

Kang discloses in Figure 8 a circuit comprising:

- two more adjustable gain circuits (836, 862) coupled to filters (836, 852); and
- a controller (894) for adjusting each adjustable gain circuit (830, 862) to generate gain control signals sequentially setting gain for each adjustable gain circuit (830, 862).

However, Kang et al does not disclose that the controller samples the outputs of each adjustable gain circuit and sets gain for each gain circuit backward from a last adjustable gain circuit, each gain circuit comprises two or more adjustable gain circuits and the gain of the gain circuit is adjusted by switching capacitances into or out of one or more of output path and a feedback loop of the amplifier. Giebel teaches in Figure 2-4 an AGC circuit comprising amplifier stages (27, 29, 31, 33), a controller (35, 83, 79) for selectively sampling each output of the stages to quickly adjust overall gain that would improve response time of the amplifier, see the Abstract. Polonen et al teaches in Figure 7 an amplifier comprising an operational amplifier, capacitors (CIN1, CFB1) and switched capacitors (CIN2, CFB2) for providing precise gains, see column 6, lines 15-20. It would have been obvious to a person having skill in the art at the time the invention was made to employ the controller taught by Giebel and the switched capacitor amplifier taught by Polonen in the circuit of Kang et al for the purpose of reducing the response time of the system and providing precise gains. As shown in Figure 2 of Giebel, many amplifiers are cascaded in order to give more gain for the stage, and the amplifier stages of Kang et al and Giebel can be adjusted randomly,

sequentially in forward direction or backward direction depending upon a particular application. Thus, adding more gain stages for each amplifier of Kang et al and selecting the gain tuning pattern for the amplifiers would have been obvious and is considered to be a matter of design expedient for an engineer.

With regard to claim 4. , since the gain of the amplifier circuit of Polonen et al is determined by the capacitance values of the capacitors, selecting the switched capacitances that are multiples of the fixed capacitances for providing a predetermined gain would be obvious at the time of the invention.

Allowable Subject Matter

Claims 19-20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The claims would be allowable over the prior art of record because the prior art does not show the third fixed capacitance and the thirds switched capacitance.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DINH T. LE whose telephone number is (571) 272-1745. The examiner can normally be reached on Monday-Friday (8AM-7PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, TIMOTHY CALLAHAN can be reached at (571) 272-1740.

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).

DINH LE
Primary Examiner

February 25, 2004

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

Docket Clerk
P.O. Drawer 800889
Dallas, TX 75380

Mail Date: 05/12/2010

Applicant	: Shu-Ing Ju	: DECISION ON REQUEST FOR
Patent Number	: 7616052	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/379,368	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/04/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1225** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Jeffrey T. Haley
13434 SE 27th Place
Bellevue, WA 98005

MAILED

JUL 06 2009

OFFICE OF PETITIONS

In re Application of	:	
Morgan Muir	:	
Application No. 10/379,372	:	DECISION ON PETITION
Filed: March 3, 2003	:	TO WITHDRAW
Attorney Docket No. 2106-001-05	:	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 26, 2009.

The request is **APPROVED**.

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

The request was signed by Jeffrey T. Haley 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 assignee at the address indicated below.

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

Terri Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Warm Brothers, Inc.**
A. Hoyt Corbett
12247 S. Casto Road
Oregon City, OR 97045

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
10/379,372	03/03/2003	Morgan Muir	

CONFIRMATION NO. 6103

POWER OF ATTORNEY NOTICE

84145
Jeffrey T. Haley
13434 SE 27th Place
Bellevue, WA 98005

OC000000036777615

Date Mailed: 07/02/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/26/2009.

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

/tswilliams/

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

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.

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

COPY MAILED

SEP 1 5 2004

OFFICE OF PETITIONS

In re Application of :
Foerster et al. :
Application No. 10/379,395 :
Filed: March 3, 2003 : ON PETITION
Attorney Docket Number: :
42P16296 :

This is a decision on the Petition Under 37 CFR § 1.53(e) to Accord a Filing Date, filed April 2, 2004, requesting the application be accorded a filing date of March 3, 2004, including 8 sheets of drawing Figures 1 - 13 described in the specification.

The petition is **granted**.

The application was filed on March 3, 2004. However, on May 2, 2004, the Office of Initial Patent Examination mailed a Notice of Incomplete Nonprovisional Application, noting that a filing date had not been accorded the application because the application had been deposited without drawings.

In response, Petitioner files the instant petition wherein Petitioner avers that eight (8) sheets of drawings containing Figures 1 - 13 were originally filed with the application on March 3, 2004, and were received by this Office as evidenced by the return-receipt postcard. In support, Petitioner provides a copy of a return receipt postcard acknowledging receipt of, *inter alia*, 8 sheets of drawings and 13 drawing Figures on March 3, 2004.

A review of the return receipt postcard reveals that Petitioner is correct. The postcard acknowledges receipt of 8 sheets of drawings and 13 drawing Figures on March 3, 2004. Petitioner has also re-submitted eight (8) sheets of drawings, comprising Figures 1 - 13, with the instant petition.

Evidence of receipt of any correspondence filed in the Patent and Trademark Office can be obtained by submitting a self-addressed postcard properly itemizing and identifying the paper or papers being filed. Upon receipt of the correspondence, the Patent and Trademark Office will check the listing on the post card against the papers submitted, making sure that all items listed are present and will then stamp the postcard with an Official date stamp and place the postcard in the outgoing mail. "A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all items listed thereon by the PTO." MPEP § 503.

The copy of 8 sheets of drawings, comprising Figures 1 - 13, supplied on July 7, 2004, will be used for examination purposes.

A refund of the petition fee has been credited to deposit account 02-2666 as authorized in the instant petition.

The application will be returned to the Office of Initial Patent Examination for further processing as a nonprovisional application with a filing date of March 3, 2004, and an indication that 8 sheets of drawings, comprising Figures 1 - 13, were present on filing, using the 8 sheets of drawings and Figures 1 - 13 filed on July 7, 2004.

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
www.uspto.gov

Paper No.

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

COPY MAILED

OCT 1 2 2004

OFFICE OF PETITIONS

In re Application of	:	
Foerster et al.	:	
Application No. 10/379,395	:	CORRECTED DECISION
Filed: March 3, 2003	:	ON PETITION
Attorney Docket Number:	:	
42P16296	:	

This is a decision on the Petition Under 37 CFR § 1.53(e) to Accord a Filing Date, filed April 2, 2004, requesting the application be accorded a filing date of March 3, 2004, including 8 sheets of drawing Figures 1 - 13 described in the specification.

The petition is **granted**.

The application was filed on March 3, 2004. However, on May 2, 2004, the Office of Initial Patent Examination mailed a Notice of Incomplete Nonprovisional Application, noting that a filing date had not been accorded the application because the application had been deposited without drawings.

In response, Petitioner files the instant petition wherein Petitioner avers that eight (8) sheets of drawings containing Figures 1 - 13 were originally filed with the application on March 3, 2003, and were received by this Office as evidenced by the return-receipt postcard. In support, Petitioner provides a copy of a return receipt postcard acknowledging receipt of, *inter alia*, 8 sheets of drawings and 13 drawing Figures on March 3, 2003.

A review of the return receipt postcard reveals that Petitioner is correct. The postcard acknowledges receipt of 8 sheets of drawings and 13 drawing Figures on March 3, 2003. Petitioner has also re-submitted eight (8) sheets of drawings, comprising Figures 1 - 13, with the instant petition.

Evidence of receipt of any correspondence filed in the Patent and Trademark Office can be obtained by submitting a self-addressed postcard properly itemizing and identifying the paper or papers being filed. Upon receipt of the correspondence, the Patent and Trademark Office will check the listing on the post card against the papers submitted, making sure that all items listed are present and will then stamp the postcard with an Official date stamp and place the postcard in the outgoing mail. "A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all items listed thereon by the PTO." MPEP § 503.

The copy of 8 sheets of drawings, comprising Figures 1 - 13, supplied on July 7, 2004, will be used for examination purposes.

A refund of the petition fee has been credited to deposit account 02-2666 as authorized in the instant petition.

The application will be returned to the Office of Initial Patent Examination for further processing as a nonprovisional application with a filing date of March 3, 2003, and an indication that 8 sheets of drawings, comprising Figures 1 - 13, were present on filing, using the 8 sheets of drawings and Figures 1 - 13 filed on July 7, 2004.

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

Derek L. Woods
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CHIRON CORPORATION
INTELLECTUAL PROPERTY - R440
PO BOX 8097
EMERYVILLE CA 94622-8097

COPY MAILED
MAY 11 2006
OFFICE OF PETITIONS

In re Patent No. 6,995,269 B2	:	DECISION ON
Renhowe, et al.	:	PATENT TERM ADJUSTMENT
Issue Date: February 7, 2006	:	AND NOTICE OF INTENT
Application No. 10/379,397	:	TO ISSUE
Filed: March 4, 2003	:	CERTIFICATE OF
Attorney Docket No. 072121-0273	:	CORRECTION

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT DETERMINATION UNDER 35 U.S.C. §154(b)(3)(B)(ii)", filed March 7, 2006. Patentee requests that the patent term adjustment indicated on the patent be corrected from two hundred one (201) days to two hundred ninety-four (294) days.

The petition is **GRANTED**.

The patent term adjustment indicated on the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **two hundred ninety-four (294)** days.

On February 7, 2006, the above-identified application matured into U.S. Patent No. 6,995,269. The instant request for reconsideration filed March 7, 2006 was timely filed within two months of the date the patent issued. See §1.705(d). The Patent issued with a Patent Term Adjustment of two hundred one (201) days.

Patentees state that the patent is not subject to a terminal disclaimer.

Patentees assert that they should not have been assessed applicant delay of ninety-three (93) days.

A review of the application filed reveals that applicants were assessed delay of ninety-three (93) days for the submission of a Statement of Substance of Interview on November 7, 2005. A "STATEMENT OF SUBSTANCE OF INTERVIEW" is not identified as one of the papers the filing of which the Director has specifically deemed not to be a failure to engage in reasonable efforts under 37 C.F.R. §1.704(c)(10).[1] Nevertheless, under the circumstances of this case, it is concluded that the filing of applicant's "STATEMENT OF SUBSTANCE OF INTERVIEW" is not a failure to engage under 37 C.F.R. §1.704(c)(10). Accordingly, the assessment of ninety-three (93) days of applicant delay with respect to this filing is not warranted.

In view thereof, the correct determination of PTA at the time of issuance is two hundred ninety-four (294) days (294 days of PTO delay and 0 days of applicant delay).

Receipt of the $200.00 fee set forth in 37 C.F.R. §1.18(e) is acknowledged.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify the error regarding the patent term information. See 35 U.S.C. § 254 and 37 C.F.R. § 1.322. The certificate of correction will indicate that the term of the above-identified patent is extended or adjusted by **two hundred ninety-four (294)** days subject to any disclaimers.

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

Kery A Fries

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

Enc: draft certificate of correction

---

[1] See Clarification of 37 CFR 1.704(c)(10) - Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance has been Mailed, 1247 Off. Gaz. 111 (June 26, 2001).

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 6,995,269 B2

DATED : February 7, 2006

INVENTOR(S) : Renhowe, 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 (201) days

Delete the phrase "by 201 days" and insert – by 294 days—

Day : Wednesday

PALM INTRANET

Date: 5/10/2006
Time: 11:38:16

PTA Calculations for Application: 10/379397			
Application Filing Date:	03/04/2003	PTO Delay (PTO):	294
Issue Date of Patent:	02/07/2006	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	93
Post-Issue Petitions:	0	Total PTA (days):	294
PTO Delay Adjustment:	93		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
57	05/10/2006	ADJUSTMENT OF PTA CALCULATION BY PTO	93		
53	02/07/2006	PATENT ISSUE DATE USED IN PTA CALCULATION			
52	01/10/2006	EXPORT TO FINAL DATA CAPTURE			
51	01/07/2006	FINISHED INITIAL DATA CAPTURE			
50	01/09/2006	DISPATCH TO FDC			
49	11/07/2005	MISCELLANEOUS INCOMING LETTER		93	
48	11/30/2005	APPLICATION IS CONSIDERED READY FOR ISSUE			
47	10/07/2005	ISSUE FEE PAYMENT VERIFIED			
46	10/12/2005	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
45	10/12/2005	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
44	10/11/2005	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
43	09/30/2005	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
42	10/07/2005	ISSUE FEE PAYMENT RECEIVED			
41	09/30/2005	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
40	07/13/2005	EXPORT TO INITIAL DATA CAPTURE			
39	07/08/2005	MAIL NOTICE OF ALLOWANCE			
38	06/30/2005	ISSUE REVISION COMPLETED			
37	06/30/2005	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
36	06/30/2005	CASE DOCKETED TO EXAMINER IN GAU			
35	06/30/2005	NOTICE OF ALLOWABILITY			

34	04/04/2005	REFERENCE CAPTURE ON IDS			
33	05/19/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
32	05/19/2005	DATE FORWARDED TO EXAMINER			
31	05/11/2005	RESPONSE AFTER NON-FINAL ACTION			
30	04/04/2005	MISCELLANEOUS INCOMING LETTER			
29	04/04/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
28	02/22/2005	MAIL NON-FINAL REJECTION	294		-1
27	02/21/2005	NON-FINAL REJECTION			
26	11/29/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
25	12/17/2004	CASE DOCKETED TO EXAMINER IN GAU			
24	10/06/2004	REFERENCE CAPTURE ON IDS			
23	10/06/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
22	09/23/2004	CASE DOCKETED TO EXAMINER IN GAU			
21	12/13/2003	CASE DOCKETED TO EXAMINER IN GAU			
20	06/27/2003	APPLICATION RETURN FROM OIPE			
19	06/27/2003	APPLICATION IS NOW COMPLETE			
18	06/09/2003	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM			
17	06/27/2003	PRE-EXAM OFFICE ACTION WITHDRAWN			
16	06/27/2003	APPLICATION RETURN TO OIPE			
15	06/27/2003	CORRESPONDENCE ADDRESS CHANGE			
14	06/26/2003	APPLICATION RETURN FROM OIPE			
13	06/27/2003	APPLICATION IS NOW COMPLETE			
12	06/09/2003	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM			
11	06/26/2003	PRE-EXAM OFFICE ACTION WITHDRAWN			
10	06/26/2003	APPLICATION RETURN TO OIPE			
9	06/26/2003	APPLICATION DISPATCHED FROM OIPE			
8	06/26/2003	APPLICATION IS NOW COMPLETE			
7	06/09/2003	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM			
6	06/09/2003	AN ASSERTION THAT THE NATURE OF THE LEGAL ENTITIES HAVING PROPERTY RIGHTS TO THE PATENT AUTHORIZES T			
5	06/09/2003	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC			

		115, OATH OF THE APPLIC			
4	05/02/2003	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
3	04/22/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
2	03/19/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	03/04/2003	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

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

ALSTON & BIRD, LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

Mail Date: 04/21/2010

Applicant	: Kenneth L. Bernier	: DECISION ON REQUEST FOR
Patent Number	: 7619626	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/379,409	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/01/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **143** 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)
7011621	2006-03-14	10/379,431	2003-03-04	

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	/Ian Coyle/	Date (YYYY-MM-DD)	2010-04-23
Name	Ian Coyle	Registration Number	64216

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. 7011621
Issue Date: March 14,2006
Application No. 10379431
Filed: March 4,2003
Attorney Docket No. 5061-08

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

This is a decision on the electronic petition, filed April 23,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of April 23,2010 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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

APPLIED MATERIALS, INC.
LEGAL AFFAIRS DEPARTMENT
PATENT COUNSEL, M/S 2061
P.O. BOX 450A
SANTA CLARA, CA 95052

COPY MAILED

AUG 0 8 2005

OFFICE OF PETITIONS

In re Application of	:	
Hsieh et al.	:	
Application No. 10/379,439	:	ON PETITION
Filed: March 3, 2003	:	
Attorney Docket No. 4170 P01 USA	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed July 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 April 4, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on July 6, 2005.

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

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

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA22313-1450
www.uspto.gov

KENYON & KENYON LLP
ONE BROADWAY
NEW YORK NY 10004

COPY MAILED

FEB 28 2008

OFFICE OF PETITIONS

In re Application of
Raj Tiwari
Application No. 10/379,462
Filed: March 3, 2003
Attorney Docket No.: **12354/5**

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed November 13, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on July 12, 2007 for failure to timely file a reply to the Final Office action mailed January 11, 2007, which set a three (3) month shortened statutory period for reply. A three month extension of time under 37 CFR 1.136(a) was obtained, however, the response filed July 16, 2007 (July 11, 2007 certificate of mail date) did not place the application in condition for allowance. An advisory action was mailed August 8, 2007. Accordingly, a Notice of Abandonment was mailed September 28, 2007.

The Notice of Appeal filed November 13, 2007 has been entered and made of record. Accordingly, the two (2)-month period for filing the Appeal Brief, accompanied by the fee required by law, runs from the date of this decision.

The application is being forwarded to Technology Center 1643 for processing of the Notice of Appeal.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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, P.C.
10333 RICHMOND, SUITE 1100
HOUSTON, TX 77042

COPY MAILED

MAR 1 1 2005

OFFICE OF PETITIONS

In re Application of
Zhongze Wang
Application No. 10/379,480
Filed: March 4, 2003
Attorney Docket No. 2008.006500/02-0160.00

ON PETITION

This is a decision on the petition to withdraw the above-identified application from issue pursuant to the provisions of 37 CFR 1.313(c)(2), filed June 10, 2004.

The petition is granted.

Petitioner requests that the application be withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

In reviewing the record of this application, it is noted that, although the petition to withdraw from issue had not been acted upon by an appropriate official of the U.S. Patent and Trademark Office (USPTO), the USPTO nevertheless processed the RCE filed July 26, 2004 and issued a new Notice of Allowance on December 30, 2004. Accordingly, this petition to withdraw from issue is being treated as having been granted prior to the mailing, on December 30, 2004, of the second Notice of Allowability and Notice of Allowance and Issue Fee Due.

Petitioner is reminded that the issue fee paid on June 8, 2004, with a Certificate of Mailing dated June 4, 2004, is not refundable. However, petitioner may request that the issue fee be applied towards payment of the issue fee due for the RCE filed July 26, 2004.[1] Failure to receive an appropriate response by the due date of March 30, 2005, will result in the abandonment of this application.

The application is being referred to Publishing Division to await a response to the Notice of Allowance and Issue Fee Due mailed December 30, 2004.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3204.

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

[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

CARL M. DAVIS II
BAKER, DONELSON, BEARMAN & CALDWELL
SUITE 900
FIVE CONCOURSE PARKWAY
ATLANTA, GA 30328

COPY MAILED

DEC 21 2004

OFFICE OF PETITIONS

In re Application of :
Keith Aldredge :
Application No. 10/379,506 : ON PETITION
Filed: March 4, 2003 :
Attorney Docket No. 171084-00005 :

This is a decision on the petition, filed December 14, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 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 relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 1744 for further processing of the request for continued examination under 37 CFR 1.114 filed December 14, 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
www.uspto.gov
DIW 07-04

SMITH MOORE LLP
P.O. BOX 21927
GREENSBORO NC 27420

COPY MAILED
JUL 27 2004
OFFICE OF PETITIONS

In re Application of	:
Mertens et al.	: DECISION ON PETITIONS
Application No. 10/379,510	: UNDER 37 CFR 1.78(a)(3)
Filed: 4 March, 2003	: AND UNDER 37 CFR 1.55(c)
Atty Docket No. 5003073-038US1	:

This is a decision on the petition under 37 CFR 1.78(a)(3) and 37 CFR 1.55(c), filed on 30 June, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 365(c) for the benefit of a prior-filed international application, and under 35 U.S.C. § 119(a)-(d) and (f) for the benefit of a prior-filed foreign application, as set forth in the concurrently-filed application data sheet. This is also a decision on the petition under 37 CFR 1.182 to expedite the petition under 37 CFR 1.78(a)(3) and 1.55(c). The petition fee has been received.

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 29 November, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 365(c) and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;[1]

[1]Any nonprovisional application or international application designated the United States of America claiming the benefit of one or more prior-filed copending applications or international applications designated the United States of America must contain or be amended to contain a reference (amendment to the first line of the

(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 4 March, 2003, and was pending at the time of filing of the instant petition. A reference to the prior-filed application has been included in an application data sheet, as required by 37 CFR 1.78(a)(2)(iii).

The instant nonprovisional application was filed after 29 November, 2000, and the claim herein for the benefit of priority to the prior-filed application is submitted after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior-filed 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. § 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. § 365(c) to prior-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;

---

specification following the title or in an application data sheet (ADS))to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) or international application number and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate (*see* § 1.14).

(3) the surcharge set forth in 37 CFR 1.17(t);

(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional. (The Commissioner may require additional information where there is a question whether the delay was unintentional.); and

(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

The above-identified pending nonprovisional application was filed on 4 March, 2003, and the intermediate PCT application was filed within 12 months of 4 September, 2000, which is the earliest filing date of the foreign application to which benefit is claimed. Lastly, petitioner has provided an adequate statement of unintentional delay.

It is noted that petitioners have not provided a certified copy of the foreign priority document.

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) and (f) is granted.

It is noted that petitioner's application data sheet improperly claims under the section for domestic priority benefit to foreign Application No. DE 100 43 706.0. Nevertheless, benefit of the aforementioned foreign application was properly placed under the section for priority, and, therefore, will only be entered as such in Office records.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) and 1.55(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. § 365(c) and 37 CFR 1.55(c) and 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 as 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 international and foreign applications, accompanies this decision on petition.

Telephone inquiries should be directed to Senior Petitions Attorney Douglas I. Wood at 703-308-6918.

The application is being forwarded to Technology Center 1713 for consideration of the amendment after allowance filed on 30 June, 2004.

Frances Hicks

Frances M. Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
For Patent Examination Policy

Encl: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

NIXON & VANDERHYE
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

COPY MAILED

SEP 2 2 2005

OFFICE OF PETITIONS

In re Application of :
Hiroshi Kondo :
Application No. 10/379,548 :
Filed: March 6, 2003 :
Attorney Docket No. 2635-152 :

ON PETITION

This is a decision on the petition, filed September 21, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on August 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) 272-3208.

The examiner of Technology Center AU 3661 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JUL 13 2005

BIRCH STEWART KOLASCH & BIRCH
P. O. BOX 747
FALLS CHURCH, VA 22040-0747

In re Application of	:
Yasutaka Ishii et al	:
Serial No.: 10/379,604	: PETITION DECISION
Filed: March 6, 2003	:
Attorney Docket No.: 3273-0169P	:

This is in response to the petition under 37 CFR 1.144, filed April 4, 2005, requesting withdrawal of an improper restriction requirement.

BACKGROUND

A review of the file history shows that this application was filed under 35 U.S.C. 111 on March 6, 2003, and contained process claims 1-6. In a first Office action, mailed March 9, 2004, the examiner set forth a restriction requirement under 35 U.S.C. 121, as follows:

Group I – Claims 1-2, drawn to a process of making oximes;
Group II – Claims 1-2, drawn to a process of making azines;
Group III – Claim 3-4, drawn to a process of making oximes;
Group IV – Claim 3-4, drawn to a process of making azines; and
Group V – Claims 5-6, drawn to a process for making oximes.

The examiner argued that Group I and II and Groups III and IV were unrelated to each other as the starting material is different in each case. The examiner stated that there are numerous ways of making azines and oximes.

Applicants replied on April 6, 2004, electing Group I and adding claim 7. Applicants traversed the requirement stating that it is immaterial which of the products are made as the reaction process steps are the same using the same starting materials and the amount of each product is dependent only on length of reaction time and quantity of water and ammonia added. Also argued is that the oximes are intermediates of the azines.

The examiner mailed a non-Final Office action to applicants on May 27, 2004, acknowledging applicants' election of Group I and the traverse. The examiner responded to the traverse by maintaining that the "claims are drawn to independent claims of preparing different compounds from different starting reactants." The examiner made the requirement Final. The examiner also

rejected claims 1-2 under 35 U.S.C. 112, second paragraph, as indefinite and further required the non-elected subject matter to be deleted from the claims. Applicants replied on August 25, 2004 by canceling claims 3-7 and adding claim 8, and maintaining the traversal of the restriction requirement and replying to the rejection of record.

The examiner mailed a Final Office action to applicants on November 4, 2004, maintaining the restriction requirement for the same reasons as before and withdrawing the rejection under 35 U.S.C. 112. The examiner again requested cancellation of non-elected subject matter from the claims.

Applicants replied on February 3, 2005, amending claims 1 and 2 and continuing to traverse the restriction requirement. The examiner denied entry of the amendment on March 23, 2005, but gave no reasons therefore.

Applicants filed this petition on April 4, 2005, concurrently with RCE papers requesting entry of the amendment filed February 3, 2005.

DISCUSSION

Applicants argue that the reasons for the examiner's requirement for restriction are improper. Applicants argue that, contrary to the examiner's assertion, there is a single starting material, a peroxide, which is reacted with ammonia and water to produce the products identified in the claims. The process proceeds through identical steps up to the production of the oxime and that the azine results from dimerization of the oximes produced. Thus the oximes are intermediates in the production of the azines and natural byproducts of the reaction depending on how long it proceeds and the ratio of ammonia to water. That oximes and azines can be produced by other methods is immaterial in this instance since the products are not being claimed, only the process of making the products. In essence applicants are claiming a multistep process in claim 1 which results in one product when carried to completion of all steps and second products if carried to completion of only the penultimate step. In reality it is difficult to prevent some products of the penultimate step from proceeding to the final step and final product. Such processes cannot and should not be separated into two distinct inventions.

DECISION

The petition is **GRANTED**.

The application will be forwarded for processing of the RCE papers and then to the examiner for further consideration not inconsistent with this decision.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 703-308-3824 or by facsimile sent to the general Office facsimile number, 571-273-8300.

George C. Elliott
Director, Technology Center 1600 George C. Elliott

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

COPY MAILED

FEB 24 2005

OFFICE OF PETITIONS

TOWNSEND AND TOWNSEND AND CREW LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

In re Application	:	
Epple, et al.	:	
Application No. 10/379,607	:	DECISION ON APPLICATION
Filed: March 4, 2003	:	FOR PATENT TERM ADJUSTMENT
Atty Docket No. 021288-001410US	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705," filed January 27, 2005. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from zero (0) days to fifty-eight (58) 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 **fifty-eight (58) days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On November 30, 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 January 27, 2005, 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 fifty-eight (58) days.

Applicants assert entitlement to a patent term adjustment of fifty-eight (58) days on the basis that the PTO should have been assessed delay of fifty-eight (58) days for not mailing an Office action within fourteen months of the filing of the application.

Applicants state that the patent issuing from the application is not subject to a terminal disclaimer.

The application was filed on March 4, 2003. Pursuant to 37 C.F.R. § 1.702(a)(1), the Office had until May 4, 2004 to mail a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151. An Office action was not mailed until July 1, 2004. Accordingly, under 37 C.F.R. § 1.703(a)(1), PTO delay of fifty-eight (58) days 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 **fifty-eight (58) days** (58 days of PTO delay and 0 days of applicant delay).

Receipt of the $200.00 fee set forth in 37 C.F.R. §1.18(e) is acknowledged.

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

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

Karin A Ferriter
for

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

Enclosure: Copy of Revised PAIR Screen

---

[1] Applicants filed the application for patent term adjustment prior to filing the issue fee.

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

FINWICK & WEST LLP
Silicon Valley Center
801 California Street
Mountain View, CA 94041

COPY MAILED
AUG 0 4 2006
OFFICE OF PETITIONS

In re Application of	:	
Yan OR et al.	:	
Application No. 10/379,617	:	DECISION ON PETITION
Filed: March 4, 2003	:	TO WITHDRAW
Attorney Docket No. 23202-07169	:	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 13, 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 W. Farn on behalf of all attorneys of record.

All attorneys/agents associated have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

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

There is an outstanding Office action mailed May 22, 2006 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at 571-272-7253.

David Bucci
Petitions Examiner
Office of Petitions

cc: Yan Or
217 Azalea Lane
San Ramon, CA 94583

cc: Duke Yee
Yee & Associates, PC
P.O. Box 802333
Dallas, TX 75380

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

INTELLECTUAL PROPERTY MANAGEMENT
BOEING MANAGEMENT COMPANY
P.O. BOX 2515
MAIL CODE 110-SD54
SEAL BEACH, CA 90740-1515

Mail Date: 04/20/2010

Applicant	: Thomas T. Bui	: DECISION ON REQUEST FOR
Patent Number	: 7599305	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/379,628	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/05/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1348** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Borg Warner
Patent Department
3850 Hamlin Road
Auburn Hills, MI 48326

COPY MAILED

MAR 05 2007

OFFICE OF PETITIONS

In re Application of	:	
MOTT et al	:	
Application No.: 10/379,669	:	DECISION ON PETITION
Filing Date: March 6, 2003	:	UNDER 37 CFR 1.137(B)
Attorney Docket No.: DKT00150	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 27, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed April 14, 2006, which set a statutory period for reply of three (3) months. Accordingly, by operation of law, the above-identified application became abandoned on July 14, 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 and publication fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the payment of the issue fee and publication fee is accepted as having been unintentionally delayed.

This application is being referred to the Office of Publications.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3301.

Daniel Stemmer
Legal Examiner
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

MAIL

MAY 1 3 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Yoshihisa Usami, et al.
Application No. 10/379,671
Filed: March 6, 2003
For: **OPTICAL RECORDING MEDIUM**

DECISION ON PETITION
TO WITHDRAW HOLDING OF
ABANDONMENT

This is in response to the petition filed April 14, 2005, which is treated as a Petition to Withdraw the Holding of Abandonment pursuant to 37 CFR §1.181. No fee is required.

The application is held as abandoned for failure to timely respond to the non-final Office action mailed September 28, 2004. A Notice of Abandonment was mailed April 4, 2005.

Petitioner states that they did not receive the Notice of Allowance mailed September 28, 2004. In support thereof, petitioner provides a copy of their docket records and provides a statement that the file jacket and docket records were searched and that the Notice of Allowance was not received.

In the absence of any irregularity in the mailing of an Office action, there is a strong presumption that the Office action was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. The showing required to establish the failure to receive an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See "Withdrawing the Holding of Abandonment When Office Actions Are Not Received" 1156 Official Gazette 53 (November 16, 1993) and M.P.E.P. § 711.03(c). The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

The petition complies with all of the requirements set forth above.

A review of the file record also reveals that the non-final Office action was returned to the Office as undeliverable on October 1, 2004. The correspondence address on the non-final Office action matches the address associated with the customer number 23373. Thus, there was obviously an irregularity in mailing of the Office action.

Accordingly, the Notice of Abandonment is vacated and the holding of abandonment withdrawn.

The petition is **GRANTED**.

The application file is being forwarded to the group technical support staff for re-mailing of the non-final Office action originally mailed September 28, 2004. The time period for response will be reset to run from the re-mail date.

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications

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

ANTONELLI TERRY STOUT AND KRAUS
SUITE 1800
1300 NORTH SEVENTEENTH STREET
ARLINGTON, VA 22209

COPY MAILED

JUN 1 6 2003

OFFICE OF PETITIONS

In re Application of :
Iwata, et al. :
Application No. 10/379,673 : ON PETITION
Filed: March 6, 2003 :
Attorney Docket No.: 501.35319CC3 :

This is a decision on the petition, filed May 16, 2003 and supplemented June 6, 2003, under 37 CFR 1.182 to accord the above-identified application a filing date of March 6, 2003.

The application was deposited on March 6, 2003. On April 4, 2003, a Notice of Omitted Items in a Nonprovisional Application ("Notice") was mailed indicating that the application had been accorded a filing date but page 42 of the specification appeared to have been omitted from the application.

Petitioner argues that the application as deposited included page 42 of the specification. Petitioner has included as proof of mailing and proof of receipt of the page of specification in question a return postcard date stamped by the Office on March 6, 2003. Petitioner has also provided a copy of the original page 42 of the specification purportedly filed with the application on March 6, 2003.

The original page 42 of the specification submitted with the application papers has not been located. However, in view of the evidence presented, the Notice is hereby **WITHDRAWN** and the petition to accord the application a filing date of March 6, 2003 is **GRANTED**.

Since the original page 42 of the specification cannot be located in the Office, the copy supplied with the instant petition will be used for examination purposes.

The petition fee of $130.00 submitted with the instant petition is unnecessary. A refund to petitioner's deposit account has been requested from the Finance Office, Refund Section.

This application will be returned to the Office of Initial Patent Examination for further processing with a filing date of March 6, 2003.

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

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 3

BACON & THOMAS
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA, VA 22314

COPY MAILED

JUN 1 0 2003

OFFICE OF PETITIONS

In re Application of	:	
Yun Fan Chen	:	
Application No. 10/379,705	:	NOTICE
Filed: March 6, 2003	:	
Attorney Docket No. CHEN3497/EM/CCC	:	

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 3711.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED
NOV 15 2005
OFFICE OF PETITIONS

In re Application of
Nobuyuki Saito, et al.
Application No. 10/379,709
Filed: March 6, 2003
Attorney Docket No.: 115318

ON PETITION

This is a decision on the petition, filed November 8, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on October 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 relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2188 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

BIOLOGICAL PATENT SERVICES, LLC
8424 40TH AVE N.
NEW HOPE, MN 55427

COPY MAILED

JUL 21 2008

OFFICE OF PETITIONS

In re Application of :
W. David LANE :
Application No. 10/379,714 : DECISION ON PETITION
Filed: March 6, 2003 :
Attorney Docket No. :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed March 7, 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, May 21, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on August 22, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $770; and (3) the required statement of unintentional delay.

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

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

This application is being referred to Technology Center AU 1638 for appropriate action by the Examiner in the normal course of business on the reply received March 7, 2008.

Thurman Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 9

MINTZ, LEVIN, COHN, FERRIS, GLOVSKY
AND POPEO, P.C.
ONE FINANCIAL CENTER
BOSTON, MA 02111

COPY MAILED

OCT 09 2003

OFFICE OF PETITIONS

In re Application of :
Catherine E. Burgess, John S. :
Chant, Ammitabha Chaudhuri, Shlomit: DECISION REFUSING STATUS
R. Edinger, Esha A. Gangolli, Uriel: UNDER 37 CFR 1.47(a)
M. Malyankar, Charles E. Miller, :
Chean Eng Ooi, Tatiana Ort, Meera :
Patturajan, **Luca Rastelli**, Daniel :
K. Rieger, Richard A. Shimkets and
Bryan D. Zerhusen
Application No. 10/379,747
Filed: March 5, 2003
For: THERAPEUTIC POLYPEPTIDES,
NUCLEIC ACIDS ENCODING SAME, AND
METHODS OF USE

This is in response to the "Petition Under 37 CFR 1.47(a)," filed July 3, 2003.

The petition is dismissed.

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

The above-identified application was filed on March 5, 2003 without an executed oath or declaration and naming E. Burgess, John S. Chant, Ammitabha Chaudhuri, Shlomit R. Edinger, Esha A. Gangolli, Uriel M. Malyankar, Charles E. Miller, Chean Eng Ooi, Tatiana Ort, Meera Patturajan, **Luca Rastelli**, Daniel K. Rieger, Richard A. Shimkets and Bryan D. Zerhusen as joint inventors.

Accordingly, on June 3, 2003, a "Notice to File Missing Parts of Application" was mailed, requiring an executed oath or declaration, and a surcharge for its late filing.

In response, on July 3, 2003, the instant petition, a declaration by Nicole Carlucci that states the non-signing inventor, **Luca Rastelli**, has been mailed a copy of the application as filed on three occasions, a copy of the "Employee Confidential Information and Invention Agreement" between non-signing inventor **Luca Rastelli** and the assignee, CuraGen Corporation, a copy of the cover letter of the first mailing to non-signing inventor **Luca Rastelli**, a copy of the returned envelope of the mailing to non-signing inventor **Luca Rastelli** that indicates the non-signing inventor is no longer at the mailing address used by petitioner, the surcharge and petition fee were submitted.

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

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

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

(3) the petition fee; and

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

Applicant lacks items (1) as set forth above.

Applicant states that non-signing inventor **Luca Rastelli** refuses to sign the declaration. However, the evidence submitted does not support this at this time. No statement or declaration submitted by petitioner indicates a direct refusal by the non-signing inventor, nor has it been shown that the non-signing inventor has ever received a copy of the application and declaration and did not respond. It appears that the copies of the application and declaration have been sent to, and returned by the United States Postal Service from, an address to which the non-signing inventor no longer lives.

Rather than an refusal to sign the declaration, it appears that the non-signing inventor cannot be reached or located. If the non-signing inventor cannot be reached or located, petitioner must provide proof that diligent efforts were made to locate the non-signing inventor. A forwarding address should be requested, if no forwarding address is available, and other attempts to locate the inventor, e.g. through e-mail, internet search, the telephone or telephone listings fail, then applicant will have established that the inventor cannot be located. See MPEP 409.03(d).

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

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

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

By hand: Office of Petitions
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 10

MINTZ, LEVIN, COHN, FERRIS, GLOVSKY
AND POPEO, P.C.
ONE FINANCIAL CENTER
BOSTON, MA 02111

COPY MAILED

OCT 0 9 2003

OFFICE OF PETITIONS

In re Application of :
Catherine E. Burgess, John S. :
Chant, Ammitabha Chaudhuri, Shlomit: DECISION REFUSING STATUS
R. Edinger, Esha A. Gangolli, Uriel: UNDER 37 CFR 1.47(a)
M. Malyankar, Charles E. Miller, :
Chean Eng Ooi, Tatiana Ort, Meera :
Patturajan, Luca Rastelli, Daniel :
K. Rieger, Richard A. Shimkets and
Bryan D. Zerhusen
Application No. 10/379,747
Filed: March 5, 2003
For: THERAPEUTIC POLYPEPTIDES,
NUCLEIC ACIDS ENCODING SAME, AND
METHODS OF USE

This is in response to the "Petition Under 37 CFR 1.47(a)," filed July 3, 2003.

The petition is dismissed.

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

The above-identified application was filed on March 5, 2003 without an executed oath or declaration and naming E. Burgess, John S. Chant, Ammitabha Chaudhuri, Shlomit R. Edinger, Esha A. Gangolli, Uriel M. Malyankar, Charles E. Miller, Chean Eng Ooi, Tatiana Ort, Meera Patturajan, Luca Rastelli, Daniel K. Rieger, Richard A. Shimkets and **Bryan D. Zerhusen** as joint inventors.

Accordingly, on June 3, 2003, a "Notice to File Missing Parts of Application" was mailed, requiring an executed oath or declaration, and a surcharge for its late filing.

In response, on July 3, 2003, the instant petition, a declaration by Nicole Carlucci that states the non-signing inventor, **Bryan D. Zerhusen**, has been mailed a copy of the application as filed on three occasions, a copy of the "Employee Confidential Information and Invention Agreement" between non-signing inventor **Bryan D. Zerhusen** and the assignee, CuraGen Corporation, a copy of the cover letter of the first mailing to non-signing inventor **Bryan D. Zerhusen**, a copy of the returned envelope of the mailing to non-signing inventor **Bryan D. Zerhusen** that indicates the non-signing inventor is no longer at the mailing address used by petitioner, the surcharge and petition fee were submitted.

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

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

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

(3) the petition fee; and

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

Applicant lacks items (1) as set forth above.

Applicant states that non-signing inventor **Bryan D. Zerhusen** refuses to sign the declaration. However, the evidence submitted does not support this at this time. No statement or declaration submitted by petitioner indicates a direct refusal by the non-signing inventor, nor has it been shown that the non-signing inventor has ever received a copy of the application and declaration and did not respond. It appears that the copies of the application and declaration have been sent to, and returned by the United States Postal Service from, an address to which the non-signing inventor no longer lives.

Rather than an refusal to sign the declaration, it appears that the non-signing inventor cannot be reached or located. If the non-signing inventor cannot be reached or located, petitioner must provide proof that diligent efforts were made to locate the non-signing inventor. A forwarding address should be requested, if no forwarding address is available, and other attempts to locate the inventor, e.g. through e-mail, internet search, the telephone or telephone listings fail, then applicant will have established that the inventor cannot be located. See MPEP 409.03(d).

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

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

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

By hand: Office of Petitions
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 15

MINTZ, LEVIN, COHN, FERRIS, GLOVSKY
AND POPEO, P.C.
ONE FINANCIAL CENTER
BOSTON, MA 02111

COPY MAILED

MAY 14 2004

OFFICE OF PETITIONS

In re Application of
Catherine E. Burgess, John S. Chant, Ammitabha Chaudhuri, Shlomit R. Edinger, Esha A. Gangolli, Uriel M. Malyankar, Charles E. Miller, Chean Eng Ooi, Tatiana Ort, Meera Patturajan, **Luca Rastelli**, Daniel K. Rieger, Richard A. Shimkets and Bryan D. Zerhusen
Application No. 10/379,747
Filed: March 5, 2003
For: THERAPEUTIC POLYPEPTIDES, NUCLEIC ACIDS ENCODING SAME, AND METHODS OF USE

: DECISION NOTING JOINDER OF INVENTOR AND PETITION UNDER 37 CFR 1.47(a)

This is in response to the renewed "Petition Under 37 CFR 1.47(a)," filed April 30, 2004.

The petition is **dismissed** as unnecessary.

Petitioner has submitted a Declaration executed by the previously non-signing inventor **Luca Rastelli** in compliance with 37 CFR 1.63. Therefore, in view of the joinder of the inventors, further consideration under 37 CFR 1.47(a) regarding **Luca Rastelli** is not necessary and the petition is considered dismissed as unnecessary. This application does not require Rule 1.47(a) status for **Luca Rastelli**, 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) for **Luca Rastelli**.

The file shall remain with the Office of Petitions as no response regarding the "Decision Refusing Status Under 37

1.47(a)" for non-signing inventor Bryan D. Zerhusen, mailed October 9, 2003, has been received as of this date.

Telephone inquiries regarding this decision should be directed to Petitions Attorney Edward Tannouse at (703) 306-9200.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BAKER BOTTS L.L.P.
2001 ROSS AVENUE
SUITE 600
DALLAS, TX 75201-2980

COPY MAILED

DEC 05 2005

OFFICE OF PETITIONS

In re Application of :
James R. Albritton :
Application No. 10/379,748 : ON PETITION
Filed: March 5, 2003 :
Attorney Docket No. 091078.1098

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 9, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 3671 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

Mitchell P. Brook, Esq.
Luce Forward Hamilton & Scripps LLP
11988 El Camino Real
Suite 200
San Diego CA 92130

COPY MAILED
APR 0 2 2004
OFFICE OF PETITIONS

In re Application of	:	
Hideharu OGAWA	:	DECISION
Application No. 10/379,770	:	ON PETITION
Filed: March 3, 2003	:	37 CFR 1.137(b)
Attorney Docket No. 30394-6	:	

This is a decision on the petition under 37 CFR 1.137(b), filed February 27, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The instant application became abandoned for failure to submit a timely reply to the Notice to File Missing Parts, mailed May 5, 2003.

Petitioner has met the requirements for filing a grantable petition under 37 CFR 1.137(b).

The application file is being forwarded to the Initial Patent Examination Division for processing the documents submitted in response to the Notice to File Missing Parts.

Any questions concerning this matter may be directed to Ehud Gartenberg at (703) 305-4066 or, in his absence, to the undersigned at (703) 308-3865.

BethAnne Dayoan
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

WESTERN DIGITAL TECHNOLOGIES, INC.
ATTN: SANDRA GENUA
20511 LAKE FOREST DRIVE
E-118G
LAKE FOREST, CA 92630

COPY MAILED

JAN 12 2006

OFFICE OF PETITIONS

In re Application of
Jafar Hadian et al.
Application No. 10/379,778
Filed: March 4, 2003
Attorney Docket No. K35R1578B

ON PETITION

This is a decision on the petition filed April 28, 2005 under 37 CFR 1.137(b),[1] to revive the above-identified application.

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

This application became abandoned April 27, 2005 for failure to timely pay the issue fee on or before April 26, 2005. This decision and the instant petition precede the mailing of the Notice of Abandonment.

The issue fee and petition fee have been applied. All other requirements of 37 CFR 1.137(b) having now been met, this application file is being forwarded to the Publishing Division to be processed into a patent.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

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

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

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

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

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

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

MICHAEL BEST & FRIEDRICH LLP
100 E WISCONSIN AVENUE
Suite 3300
MILWAUKEE, WI 53202

Mail Date: 04/21/2010

Applicant	: Lloyd W. Rogers	: DECISION ON REQUEST FOR
Patent Number	: 7578094	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/379,785	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/05/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1221** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

Mail Date: 04/21/2010

Applicant	: David Pullen	: DECISION ON REQUEST FOR
Patent Number	: 7613133	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/379,801	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/06/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1227** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MICHAEL L. GOLDMAN
NIXON PEABODY LLP
CLINTON SQUARE
P.O. BOX 31051
ROCHESTER NY 14603-1051

COPY MAILED

JAN 18 2006

OFFICE OF PETITIONS

In re Application of
John P. Blass
Application No. 10/379,816
Filed: March 3, 2004
Attorney Docket No. SHDIP-001A

ON PETITION

This is a decision on the petition, filed October 21, 2005, under 37 CFR 1.181, to withdraw the holding of abandonment.

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

The application was held abandoned on April 29, 2005, for failure to file an appeal brief or RCE in response to the Notice of Appeal filed February 28, 2005. A two (2) month period for reply was set. Accordingly, a Notice of Abandonment was mailed on October 3, 2005.

Petitioner asserts that an RCE was filed September 26, 2005 (certificate of mail date) with a five month extension of time as a timely response to the Notice of Appeal filed February 28, 2005. Submitted as proof is a copy of the RCE and the extension of time, both with certificates of mail dated September 26, 2005.

A search of the application file and the USPTO records reveals that in fact, the RCE, amendment and five month extension of time, all with the proper fees, were timely filed with a certificates of mail on September 26, 2005.

Accordingly, the response was timely and the Notice of Abandonment mailed October 3, 2005 was mailed in error and is hereby withdrawn. No petition fee is due and none has been charged.

This matter is being referred to Technology Center 1614 for processing the RCE filed September 26, 2005 (certificate of mail date).

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

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

S.C. JOHNSON & SON, INC.
1525 HOWE STREET
RACINE, WI 53403-2236

COPY MAILED

JAN 1 4 2004

OFFICE OF PETITIONS

In re Application of	:	
Edward L. Paas et al	:	
Application No. 10/379,817	:	ON PETITION
Filed: March 4, 2003	:	
Attorney Docket No. J-3465	:	

This is a decision on the petition under 37 CFR 1.182, filed August 25, 2003, to change the order of the names of the inventors.

The petition is dismissed as **MOOT**.

A review of the application processing history indicates that a Filing Receipt with the desired order of inventorship was mailed on November 10, 2003.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 306-5685.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SMITH MOORE LLP
P.O. BOX 21927
GREENSBORO, NC 27420

COPY MAILED

OCT 21 2004

OFFICE OF PETITIONS

In re Application of	:	
Richard Mertens	:	DECISION ON PETITIONS
Application No. 10/379,827	:	UNDER 37 CFR 1.78(a)(3)
Filed: March 4, 2003	:	AND UNDER 37 CFR 1.55(c)
Attorney Docket No. 05003073-39US1	:	

This is a decision on the petitions under 37 CFR 1.78(a)(3) and 37 CFR 1.55(c), filed July 1, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of a prior-filed PCT application, and under 35 U.S.C. § 119(a)-(d) for the benefit of a prior-filed foreign application, 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 applicable to those applications filed on or after November 29, 2000 and is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). 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 March 4, 2003, and was pending at the time of filing of the instant petition. A reference to the prior-filed application has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(2)(iii).

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed application is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior-filed 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 prior-filed 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 March 4, 2003, which is after November 29, 2000, and the intermediate PCT application was filed within 12 months of September 4, 2000, which is the earliest filing date of the foreign application to which benefit is claimed. The Application Data Sheet filed on July 1, 2004 also identifies the foreign application for which priority is claimed. A certified copy of the foreign patent document is included. The requisite surcharge has been submitted and petitioner has provided an adequate statement of unintentional delay.

All requirements being met, the petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority under 35 U.S.C. § 119(a)- (d) is granted.

A corrected Filing Receipt, which includes the priority claim to the prior-filed applications, and the foreign priority claim, 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 and 365(c) and 37 CFR 1.78(a)(1) and (a)(2) and 37 CFR 1.55(c) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

Any inquiries concerning this decision may be directed to Sherry Brinkley at (571) 272-3204.

This application is being referred to Technology Center Art Unit 1713 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 prior-filed 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.

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

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

ATTACHMENT: Corrected Filing Receipt

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20061106

DATE : November 6, 2006

TO SPE OF : ART UNIT 1653

SUBJECT : Request for Certificate of Correction on Patent No.: 7091331

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

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

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

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

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

☐ **Approved** **All** changes apply.

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

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

Comments:

The correction of claims 15 and 16 will not be entered because the amendment changes the scope of the claims and a claim cannot depend from a later claim.

SPE: Jon P. Weber **Art Unit** 1657

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

WOMBLE CARLYLE SANDRIDGE & RICE PLLC
P O BOX 7037
ATLANTA, GA 30357-0037

COPY MAILED

NOV 1 8 2005

OFFICE OF PETITIONS

In re Application of
Jeffrey Daniel Schmitt et al
Application No. 10/379,868
Filed: March 5, 2003
Attorney Docket No. T103 1540.1

DECISION GRANTING PETITION
UNDER 37 CFR 1.313(c)(2)

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 17, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 1624 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the amendment, both of which were filed on October 20, 2005, and for consideration of the amendment under 37 CFR 1.312, filed with the issue fee payment on August 17, 2005.

Frances Hicks
Frances Hicks
Petitions Examiner
Office of Petitions

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN, NJ 08830

Mail Date: 04/26/2010

Applicant	: Robert Emmons Haskell	: DECISION ON REQUEST FOR
Patent Number	: 7580831	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/379,880	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/05/2003	: 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.

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

APR 27 2005

In re Application of	:	
Zhadanov	:	AP
Serial No:10/379,892	:	PETITION UNDER
Filed: March 6, 2003	:	M.P.E.P. 708.02, IV
For: ROTATBLE WASHING DEVICE AND	:	
ATTACHMENTS PROVIDED THEREFOR	:	

This is in response to the petition filed April 2, 2005, 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 lacks evidence showing that the applicant is of 65 years of age or more, such as a birth certificate, copy of driver's license or **applicant's** statement under the title 18 U.S.C. 1001. Accordingly, the petition is denied.

The petition is **DENIED**

R. Crispino

Richard Crispino, Special Program Examiner
Technology Center 1700
Chemical and Materials Engineering

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

KRAMER & AMADO, P.C.
SUITE 240
1725 DUKE STREET
ALEXANDRIA, VA 22314

COPY MAILED
MAY 11 2006
OFFICE OF PETITIONS

In re Application of :
Craven, et al. :
Application No. 10/379,912 : ON PETITION
Filed: March 6, 2003 :
Attorney Docket No. CHC 3002 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 2, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee and publication fee, if applicable, on or before April 24, 2006. Accordingly, this application became abandoned on April 25, 2006.

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

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 4

MAIL

AUG 2 5 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Antonelli, Terry, Stout & Kraus, LLP
1300 North Seventeenth Street
Suite 1800
Arlington, VA 22209-9889

In re Application of:
Takashige Iwamura et al.
Application No. 10/379,920
Filed: March 6, 2003
For: INFORMATION PROCESSING SYSTEM HAVING DATA MIGRATION

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

This is a decision on the petition, filed 28 June 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(h);

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

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

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

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

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

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

Arnold S. Weintraub
The Weintraub Group, P.L.C.
32000 Northwestern Highway
Suite 240
Farmington Hills, MI 48334

COPY MAILED

MAY 03 2005

OFFICE OF PETITIONS

In re Application of :
David B. McCall :
Application No. 10/379,927 : ON PETITION
Filed: March 5, 2003 :
Attorney Docket No. MAT-100-A :

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

The petition is **DISMISSED** because it lacks the required petition fee pursuant to 37 CFR 1.17(m).

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

While the petition filed February 1, 2005 acknowledges that a petition fee of $750 is required, petitioner submitted a check for $985, which was applied toward the requisite issue/publication fee. It is noted that an Issue Fee Transmittal form was subsequently filed on February 4, 2005, noting the previously filed issue/publication fee. None of the papers filed February 1, 2005 or February 4, 2005 included a general authorization to charge the fee deficiency.

[1] As amended effective December 1, 1997. See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53194-95 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 119-20 (October 21, 1997).

[2] In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

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

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

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

The centralized facsimile number is **(703) 872-9306.**

Any questions concerning this matter may be directed to the undersigned at (571) 272-3204.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Arnold S. Weintraub
The Weintraub Group, P.L.C.
32000 Northwestern Highway
Suite 240
Farmington Hills, MI 48334

COPY MAILED

SEP 07 2005

OFFICE OF PETITIONS

In re Application of
David B. McCall
Application No. 10/379,927
Filed: March 5, 2003
Attorney Docket No. MAT-100-A

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b) to revive the above-identified application, filed May 17, 2005.

The petition is GRANTED.

This application is being referred to Publishing Division.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing at Publishing Division should be directed to (703) 305-8283.

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

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

Jerry K. Mueller, Jr.
Mueller and Smith, LPA
7700 Rivers Edge Drive
Columbus OH 43235

COPY MAILED

JUL 1 8 2005

OFFICE OF PETITIONS

In re Application of
Ben N. Dillon
Application No. 10/379,957
Filed: March 5, 2003
Attorney Docket No.: DIL 2-007
Title: ARTICULATED HARVESTER AND METHOD FOR CONVERTING A HARVESTER AND TOWED GRAIN TRAILER INTO AN ARTICULATED HARVESTER

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 September 10, 2004, to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Missing Parts (notice), mailed April 28, 2003, which set a shortened statutory period for reply of two (2) months. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on June 29, 2003. A Notice of Abandonment was mailed on August 25, 2004

37 C.F.R. §1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. §1.137(b) was unintentional. Since the statement contained in the instant petition varies from the language required by 37 C.F.R. §1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 C.F.R. §1.137(b)(3) and petitioner must notify the Office if this is not a correct interpretation of the statement contained in the instant petition.

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

Copied from 10848510 on 09/21/2005

With the present petition, Petitioner has submitted the petition fee, a declaration, and the surcharge associated with the late submission of the same. Petitioner has also included a statement which is being construed 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**.

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.

Petitioner has also filed a terminal disclaimer, disclaiming the terminal part of any patent granted on this application equivalent to the period of abandonment for this application, which has been entered and made of record. Petitioner will note that pursuant to 37 C.F.R. §1.137(d), terminal disclaimers are required in conjunction with petitions under 37 C.F.R. §1.137(b) only for those applications filed before June 8, 1995.

Paul Shanoski

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

Copied from 10848510 on 09/21/2005

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

ELSA KELLER
INTELLECTUAL PROPERTY DEPARTMENT
SIEMENS CORPORATION
170 WOOD AVENUE SOUTH
ISELIN NJ 08830

COPY MAILED
AUG 2 6 2004
OFFICE OF PETITIONS

In re Application of	:
JonYeon Oh et al	:
Application No. 10/379,961	: DECISION GRANTING PETITION
Filed: March 5, 2003	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 2003P01805US01	:

This is a decision on the petition, filed August 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 March 19, 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 2834 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-145
www.uspto.gov

NOV - 8 2004

MAILED
NOV - 8 2004
OFFICE OF THE DIRECTOR
TC 3600

MCDERMOTT WILL & EMERY LLP
18191 Von Karman Avenue
Irvine, CA 92612-7107

In re application of
Patrick Joseph Champagne et al :
Application No. 10/379,982 :
Filed: March 04, 2003 :
For: AUTOMATED LATCHING DEVICE WITH ACTIVE DAMPING :

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on March 18, 2004, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED** 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 this application is not approved as moot because a revocation of power of attorney to Chun-Pok Leung and Richard T. Ogawa and a new power of attorney to the attorneys of McDERMOTT, WILL & EMERY was submitted to the United States Patent and Trademark Office on April 05, 2004. The power of attorney therefore has already been withdrawn as per the Notice to that effect mailed April 13, 2004.

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

SNM/pav: 11/04/04

cc: Chun-Pok Leung
Richard T. Ogawa
TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, 8th Floor
San Francisco, CA 94111-3834

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: 09-03

Paper No: 5

LORUSSO & LOUD
3137 MOUNT VERNON AVENUE
ALEXANDRIA, VA 22305

COPY MAILED
SEP 30 2003
OFFICE OF PETITIONS

In re Application of:	:	
Gray, et al.	:	ON PETITION
Filed: 6 March, 2003	:	
Application No. 10/379,992	:	
Docket No. (None)	:	

This is a decision on the paper filed as a "Petition Under 37 C.F.R. §1.182" filed on 15 May, 2003, and properly treated as a petition under 37 C.F.R. §1.53, requesting that Fig. 20 for the above-identified application be accorded a filing date of 6 March 2003.

The petition as considered under 37 C.F.R. §1.53 is **GRANTED**.

The application was deposited on 6 March, 2003.

On 9 May, 2003, the Office mailed a Notice of Missing Parts (filing fee, oath/declaration) and noted therein that "Figure(s) 20 described in the specification" appeared to have been omitted.

Thereafter, on 15 May, 2003, Petitioner George A. Loud (Reg. No. 25,814) filed the instant petition, and

- therewith supplied:

  --a copy of the receipt card (see: MPEP §503) evidencing the deposit on 6 March, 2003, of the instant application containing: "66 Pages of Specification; 44 Claims; 13 Sheets of Formal Drawings"; and

  --a copy of a document purporting to be "Fig. 20"; and

- Petitioner's statement.

A review of the application papers reveals that the application in fact was filed and received in

the Office on 6 March, 2003, and that a comparison of the date-stamped (6 March, 2003) copy of the receipt card filed by Petitioner and the drawings in the file evidence the file containing 12 drawings (containing respectively Fig. 1, Fig. 2, Fig. 3. Fig. 4, Fig. 5, Figs. 6-12, Figs. 13-14, Figs. 15-17, Fig. 18-19, Fig. 21, Figs. 22-23, and Figs. 24-26).

Petitioner contends that if the Notice indicating an omitted item was correct, there would be only 12 sheets of drawings acknowledged on the date-stamped receipt card, rather than the 13 sheets of drawings acknowledged as received by the Office.

Petitioner's contention is well taken, and it appears that 13 sheets of drawings were filed, and thereafter Fig. 20 was misplaced in the Office.

Therefore, the petition is **granted** to accord a filing date of 6 March, 2003, to Fig. 20, and the petition fee is refunded via Treasury check.

The application is being returned to OIPE for further processing with a filing date of 6 March, 2003, using the 66 Pages of Specification; 44 Claims; 12 Sheets of Formal Drawings containing Fig. 1, Fig. 2, Fig. 3. Fig. 4, Fig. 5, Figs. 6-12, Figs. 13-14, Figs. 15-17, Fig. 18-19, Fig. 21, Figs. 22-23, and Figs. 24-26, all deposited on 6 March, 2003; and the one sheet of drawing containing Fig. 20 submitted with the instant petition on 15 May, 2003; and further with direction to OIPE to correct Office records to reflect that 13 sheets of drawings were present on filing on 6 March, 2003; and forward to Petitioner a copy of the corrected filing receipt reflecting a filing date of 6 March, 2003, reflecting therein that 13 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

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

COPY MAILED

JUN 19 2009

OFFICE OF PETITIONS

In re Patent No. 7,354,550	:	
Issued: April 8, 2008	:	
Application No. 10/380,005	:	PATENT TERM ADJUSTMENT
Filed: April 11, 2003	:	
Dkt. No.: 016782-0275	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705," filed May 15, 2008. This matter is being treated under 37 CFR 1.705(d) as an application for patent term adjustment.

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

The above-identified application matured into U.S. Patent No. 7,354,550 on April 8, 2008. The instant request for reconsideration was timely filed. The patent issued with a PTA of 505 days. Patentee argues that the adjustment was improperly reduced 89 days in connection with the filing of the "LETTER (UNDER A GENERAL DUTY OF CANDOR AND GOOD FAITH IN PRACTICE BEFORE THE OFFICE)" on January 11, 2008. Patentee also indicates that the Office neglected to assess a reduction of one day in connection with the request for continued examination (RCE) filed March 12, 2007. Patentee indicates that the correct adjustment is 593 days.

Patentee's arguments have been carefully considered and found convincing. The correct adjustment at the time of issuance is 293 days, as argued.

The adjustment of 628 days was properly reduced 32 days in accordance with 37 CFR 1.704(b) in connection with the reply filed October 1, 2007. The adjustment was further properly reduced two days in accordance with 37 CFR 1.704(c)(8) in connection with the supplemental reply filed October 3, 2007.

As indicated by patentee, the Office neglected to assess a reduction of one day in connection with the RCE filed March 12,

2007. In accordance with 37 CFR 1.704(b), the reduction commenced March 12, 2006, the day after the date that is three months after the date that the final rejection was mailed, and ended March 12, 2007, the date that the RCE was filed.

Accordingly, at the time of issuance, the application was entitled to a patent term adjustment of 293 days (adjustment totaling 628 days less reductions totaling 35 days), as argued by patentee.

The required PTA application fee of $200.00 was previously submitted January 22, 2008.

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 593 days.

Telephone inquiries specific to this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

Enclosure: Draft Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT	:	7,354,550 B2
DATED	:	April 8, 2008
INVENTOR(S)	:	Aubert

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 505 days

Delete the phrase "by 505 days" and insert – by 593 days--

Day : Thursday
Date: 6/18/2009

PALM INTRANET

Time: 16:43:54

PTA Calculations for Application: 10/380005

Application Filing Date:	04/11/2003	PTO Delay (PTO):	628
Issue Date of Patent:	04/08/2008	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	123
Post-Issue Petitions:	0	Total PTA (days):	593
PTO Delay Adjustment:	88		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
63	06/18/2009	ADJUSTMENT OF PTA CALCULATION BY PTO	89		
62	06/18/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		1	
58.5	03/19/2008	PTA 36 MONTHS			
58	04/08/2008	PATENT ISSUE DATE USED IN PTA CALCULATION			
57	02/28/2008	EXPORT TO FINAL DATA CAPTURE			
56	02/27/2008	DISPATCH TO FDC			
55	02/27/2008	APPLICATION IS CONSIDERED READY FOR ISSUE			
54	02/12/2008	ISSUE FEE PAYMENT VERIFIED			
53	02/21/2008	FINISHED INITIAL DATA CAPTURE			
52	01/11/2008	MISCELLANEOUS INCOMING LETTER		89	
51	02/12/2008	ISSUE FEE PAYMENT RECEIVED			
50	12/14/2007	EXPORT TO INITIAL DATA CAPTURE			
49	12/07/2007	MAIL NOTICE OF ALLOWANCE			
48	12/07/2007	MAIL EXAMINER'S AMENDMENT			
47	11/13/2007	MISCELLANEOUS INCOMING LETTER			
46	11/13/2007	ISSUE REVISION COMPLETED			
45	11/13/2007	DOCUMENT VERIFICATION			
44	11/13/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
43	11/13/2007	CASE DOCKETED TO EXAMINER IN GAU			
42	11/13/2007	EXAMINER'S AMENDMENT COMMUNICATION			
41	11/13/2007	NOTICE OF ALLOWABILITY			
40	10/12/2007	DATE FORWARDED TO EXAMINER			
39	10/03/2007	SUPPLEMENTAL RESPONSE		2	37
38	10/12/2007	DATE FORWARDED TO EXAMINER			

37	10/01/2007	RESPONSE AFTER NON-FINAL ACTION		32	33
36	10/01/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
35	10/04/2007	CASE DOCKETED TO EXAMINER IN GAU			
34	10/02/2007	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
33	05/30/2007	MAIL NON-FINAL REJECTION			
32	05/25/2007	NON-FINAL REJECTION			
31	03/19/2007	DATE FORWARDED TO EXAMINER			
30	03/12/2007	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
29	03/19/2007	DATE FORWARDED TO EXAMINER			
28	03/12/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)			
27	03/19/2007	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
26	03/12/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
25	12/11/2006	MAIL FINAL REJECTION (PTOL - 326)			
24	12/08/2006	FINAL REJECTION			
23	10/03/2006	DATE FORWARDED TO EXAMINER			
22	09/28/2006	RESPONSE AFTER NON-FINAL ACTION			
21	06/28/2006	MAIL NON-FINAL REJECTION			
20	06/26/2006	NON-FINAL REJECTION			
19	01/13/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
18	04/11/2003	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
17	04/10/2006	DATE FORWARDED TO EXAMINER			
16	03/31/2006	RESPONSE TO ELECTION / RESTRICTION FILED			
15	03/01/2006	MAIL RESTRICTION REQUIREMENT	628		-1
14	02/28/2006	REQUIREMENT FOR RESTRICTION / ELECTION			
13	08/25/2005	CASE DOCKETED TO EXAMINER IN GAU			
12	01/13/2005	REFERENCE CAPTURE ON IDS			
11.7	01/13/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
11	01/13/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
10	03/04/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
9	03/04/2004	CASE DOCKETED TO EXAMINER IN GAU			

8	04/11/2003	REFERENCE CAPTURE ON IDS			
7.7	04/11/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
7	04/11/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
6	04/11/2003	PRELIMINARY AMENDMENT			
5	02/26/2004	TRANSFER INQUIRY TO GAU			
4	06/03/2003	APPLICATION DISPATCHED FROM OIPE			
3	05/31/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
2	05/21/2003	NOTICE OF DO/EO ACCEPTANCE MAILED			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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

Back to OASIS | Home page

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : April 6, 2006

TO SPE OF : ART UNIT 3765 (S.P.E. John Calvert)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/380012 Patent No.: 6,996,881

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**.

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.

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

Comments: _____

SPE

3765

Art Unit

2 4 JUN 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.go

THE PROCTER & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION
WINTON HILL TECHNICAL CENTER - BOX 161
6110 CENTER HILL AVENUE
CINCINNATI, OH 45224

In re Application of	:
MOHR et al.	:
Serial No.: 10/380,013	:
PCT No.: PCT/EP00/13004	: DECISION ON PETITION
Int. Filing Date: 20 December 2000	:
Priority Date: 22 December 1999	: UNDER 37 CFR 1.137(b)
Attorney's Docket No.: CM2264M4	:
For: PERFUME COMPOSITIONS WITH ENHANCED VISCOSITY AND PROCESS FOR THEIR PREPARATION	:

The petition to revive under 37 CFR 1.137(b) filed 11 March 2003 in the above-captioned application is hereby **GRANTED** as follows:

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

A review of the application file reveals that the basic national fee of $750 has been paid. The required petition fee of $1300 has also been paid. Thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office for further processing. Per their authorization, applicants' deposit account will be charged the $130 surcharge for filing the declaration after the thirty month period. The 35 U.S.C. 371 date is **11 March 2003.**

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (703) 306-5467

UNITED STATES PATENT AND TRADEMARK OFFICE

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

WOLF GREENFIELD & SACKS PC
FEDERAL RESERVE PLAZA
600 ATLANTIC AVENUE
BOSTON, MA 02210-2206

COPY MAILED
MAY 2 2 2006
OFFICE OF PETITIONS

In re Application of :
Hiroshi Fujisawa :
Application No. 10/380,018 : DECISION GRANTING PETITION
Filed: March 11, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. S1459.70012US00 :

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on March 22, 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 2627 for processing of the RCE and consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\FHicks\My Documents\470\may9\380018.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), which includes the following language thereon: "The Director of the USPTO is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee in the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LEONARD LAN
LAN YUNG HUEI
1061 WALLACE DRIVE
SAN JOSE CA 95120

COPY MAILED

NOV 10 2005

OFFICE OF PETITIONS

In re Application of
Yung Huei-Lan
Application No. 10/380,023
Filed: October 27, 2003
Title of Invention: ADHESIVE SHEET TYPE HOLDING DEVICE FOR MOUNTING ONTO A WALL

ON PETITION

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

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application under 37 CFR 1.53(b); (2) the petition fee of $750; and (3) an adequate statement of unintentional delay.

Since this application is being revived for purposes of continuity only and since continuity has been established by this decision reviving the application, the application is again abandoned in favor of continuation application no.11/200,825 filed August 9, 2005, pursuant to the provisions of 37 CFR 1.53(b).

This matter is being referred to Technology Center 1771 for processing of the continuation application filed August 9, 2005.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

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

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

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

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

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

31 MAR 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Edward J. Hejiek
SENNIGER, POWERS, LEAVITT & ROEDEL
One Metropolitan Square, 16th Floor
St. Louis Missouri 63102

In re Application of	:	
MOSKOWITZ	:	
U.S. Application No.: 10/380,024	:	DECISION ON RENEWED
PCT No.: PCT/US01/28834	:	PETITION UNDER
International Filing Date: 11 September 2001	:	37 CFR 1.47(b)
Priority Date: 11 September 2000	:	
Attorney's Docket No.: VTI2198.1	:	
For: ENDOTHELIN-1 PROMOTER	:	
POLYMORPHISM	:	

This decision is issued in response to petitioner's 17 December 2003 submission of a renewed petition under 37 CFR 1.47(b). No petition fee is required.

BACKGROUND

The procedural background for this application is set forth in the decision mailed by this Office on 23 September 2003. In that decision, petitioner's petition under 37 CFR 1.47(b) was dismissed without prejudice for failure to satisfy all the requirements of a grantable petition. Specifically, petitioner had not submitted a declaration acceptable under 37 CFR 1.497 executed on behalf of the nonsigning applicant by the 37 CFR 1.47(b) applicant.

On 17 December 2003, petitioner filed the renewed petition considered herein, along with authorization to charge Deposit Account No. 10-1345 the required one month extension fee.

DISCUSSION

The renewed petition includes a declaration properly executed on behalf of the 37 CFR 1.47(b) applicant. The renewed petition also includes additional materials with respect to the 37 CFR 1.47(b) applicant's proprietary interest in the application. Specifically, petitioner has submitted a "Legal Memorandum Under MPEP §409.03(f)" that concludes that the 37 CFR 1.47(b) applicant (Viral Therapeutics, Inc.) would by weight of applicable authority be awarded title of the invention underlying the present application.

Petitioner has now satisfied all the requirements for a grantable petition.

CONCLUSION

The renewed petition under 37 CFR 1.47(b) is **GRANTED**.

As provided in 37 CFR 1.47(b), a notice of the filing of this application will be forwarded to the nonsigning inventor at the last known address set forth in the petition, and notice of the filing of the application under 37 CFR 1.47(b) will be published in the Official Gazette.

This application is being forwarded to the National Stage Processing Branch of the PCT Operations Division for further processing in accord with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 17 December 2003.

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

31 MAR 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

Dr. David W. Moskowitz
518 Bonhomme Woods Drive
St. Louis, Missouri 63132

In re Application of: MOSKOWITZ
U.S. Application No.: 10/380,024
PCT No.: PCT/US01/28834
International Filing Date: 11 September 2001
Priority Date: 11 September 2000
Attorney's Docket No.: VTI2198.1
For: ENDOTHELIN-1 PROMOTER POLYMORPHISM

Dear Dr. Moskowitz:

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

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

RMR

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

Counsel of Record:
Edward J. Hejiek
SENNIGER, POWERS, LEAVITT & ROEDEL
One Metropolitan Square, 16th Floor
St. Louis Missouri 63102

23 SEP 03

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Edward J. Hejlek
Senniger, Powers, Leavitt & Roedel
One Metropolitan Square, 16th Floor
St. Louis, MO 63102

In re Application of	:	
Moskowitz	:	
US Application No.: 10/380,024	:	
PCT Application No.: PCT/US01/28834	:	
International Filing Date: 11 September 2001	:	DECISION ON PETITION
Priority Date: 11 September 2000	:	UNDER 37 CFR 1.47(b)
Attorney's Docket No.: VTI2198.1	:	
For: ENDOTHELIN-1 PROMOTER	:	
POLYMORPHISM	:	

This decision concerns the "Petition for Filing of Patent Application When Inventor Refuses to Execute Papers under 37 CFR 1.47(b)" filed on 05 August 2003, which is **DISMISSED** as follows.

BACKGROUND

On 11 September 2001, international application PCT/US01/28834 was filed, claiming priority of an earlier U.S. provisional application filed on 11 September 2000. The period for paying the basic national fee is 30 months and ended at midnight on 11 March 2003.

On 10 March 2003, a transmittal letter for entry into the national stage in the United States (Form PTO-1390) was filed along with, *inter alia*, the $360 basic national fee (small entity) required by 35 U.S.C. 371(c)(1) and 37 CFR 1.492(a)(1), and an un-executed declaration.

On 10 July 2003, a "Notification of Missing Requirements under 37 CFR 371 in the United States Designated/Elected Office (DO/EO/US)" was mailed, requesting submission of an oath or declaration in compliance with 37 CFR 1.497(a) and (b), within the later of 2 months from the mailing date of the notification, or, 32 months from the priority date. The instant petition then followed, asserting that the sole inventor David W. MOSKOWITZ refused to sign the declaration, and enclosing a declaration signed by an officer of Assignee.

DISCUSSION

Under 37 CFR 1.47(b), a person or an entity may make the application oath or declaration on behalf of, and as agent for, an inventor who cannot be found/reached after diligent effort, or who refused to sign the application oath or declaration, provided that: (MPEP 409.03(b) (Rev. 1, Feb. 2003))

(1) The person or entity making the oath or declaration, i.e, the "37 CFR 1.47(b) applicant," has a demonstrated proprietary interest in the invention claimed in the patent application. (also MPEP 409.03(f) (Rev. 1, Feb. 2003))

[If the 37 CFR 1.47(b) applicant is an assignee (either a single assignee-of-the-entire interest, or multiple assignees together owning an undivided 100% interest in the application), the oath/ declaration must be accompanied by:

(A) A copy of the assignment in English, to show a chain of title from the inventor(s) to the 37 CFR 1.47(b) applicant;

(B) A statement pursuant to 37 CFR 3.73(b), to establish the 37 CFR 1.47(b) applicant's ownership in the claimed invention and thus right to prosecute this application before the USPTO.

(MPEP 324, 409.03(f) (Rev. 1, Feb. 2003))]

(2) The oath or declaration, as required by 37 CFR 1.497, is signed by the 37 CFR 1.47(b) applicant.

[Where the 37 CFR 1.47(b) applicant is a corporation, the oath/ declaration must be signed by an officer of the corporation or one specifically authorized by the corporation to sign the oath or declaration on its behalf, indicating this person's title or position.]

(3) The petition includes a statement of facts by those with firsthand knowledge of the facts recited therein, establishing that the sole inventor or all of the named inventors cannot be located/reached after diligent effort; or, refused to sign the oath/declaration despite the *bona fide* attempt made to present to the non-signing inventor(s) a copy of the entire application (specification including claims; drawings, if any). (MPEP 409.03(d) (Rev. 1, Feb. 2003))

(4) The petition includes a statement that a filing date for the application is necessary to preserve the rights of the parties or to prevent irreparable damage. (MPEP 409.03(g) (Rev. 1, Feb. 2003))

(5) The petition indicates the last known address of each of the non-signing inventors. (MPEP 409.03(e) (Rev. 1, Feb. 2003)) and

(6) The petition includes the petition fee set forth in 37 CFR 1.17(h), currently $130.

The instant §1.47(b) petition satisfies the requirements in (1) and (3)-(6) above, but lacks item (2), in that, the declaration enclosed with the petition, while signed by an officer of Assignee, mis-identifies the sole inventor as the officer who signed the declaration, Lee A. Henderson. In addition, the personal data shown in the declaration are not that of the inventor. Therefore, the inventor's citizenship is also missing. This declaration is thus defective for noncompliance with 37 CFR 1.497(a)(3).

CONCLUSION

In view of the above, the petition is **DISMISSED without prejudice.**

A renewed §1.47(b) petition must be filed **WITHIN TWO MONTHS** of the mailing date of this decision, and be accompanied by the items discussed above, if not previously submitted. The 2-month period is extendable under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to:

Mail Stop PCT
Commissioner for Patents
Office of PCT Legal Administration
PO Box 1450
Alexandria, VA 22313-1450

Boris Milef
PCT Legal Examiner
PCT Legal Office

RC Tang
Petitions Attorney
PCT Legal Office
Telephone: 703-308-1315
Facsimile: 703-308-6459

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 4/3/07

Paper No.: ——

TO SPE OF : ART UNIT 1752

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/380029 Patent No.: 6986981 B2

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

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

Please complete the response (see below) and forward the completed response to scanning using document code COCX.

Virginia Tolbert
Certificates of Correction Branch

703-308-9390 ext. 113

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — All changes apply.
- ☐ **Approved** in Part — Specify below which changes do not apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

Cynthia H Kelly 1795
SPE Art Unit

2 7 APR 2009

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

James P. Zeller
Marshall, Gerstein & Borun
6300 Sears Tower
233 South Wacker Drive
Chicago, IL 60606-6357

In re Application of	:	
Zapka et al.	:	
Application No.: 10/380,036	:	DECISION ON
PCT No.: PCT/GB01/04307	:	
Int. Filing Date: 26 September 2001	:	PETITION UNDER
Priority Date: 26 September 2000	:	
Attorney Docket No.: 27392/22702	:	37 CFR 1.47(a)
For: Droplet Deposition Apparatus	:	

This is a decision on applicant's renewed petition under 37 CFR 1.47(a) filed on 18 April 2006 (a copy of which was filed on 19 February 2009).

DISCUSSION

Petitioner indicates that a renewed petition under 37 CFR 1.47(a) was filed on 18 April 2006, and provides copies of the renewed petition and a postcard receipt. Inspection of the postcard receipt reveals that it itemizes the renewed petition (and a petition and fee for an extension of time), and is stamped as received by the USPTO on 18 April 2006. MPEP 503 explains (in part) that "A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO." Following that policy, the copy of the renewed petition filed on 19 February 2009 is regarded as a copy of the petition originally filed on 18 April 2006.

In a decision mailed on 12 January 2006 (incorrectly date stamped as mailed on 12 January 2005), the renewed petition under 37 CFR 1.47(a) filed on 14 October 2005 was dismissed without prejudice because

> The instant renewed petition is accompanied by a copy of a cover letter from Peter D. Garratt to Mr. de Roos, dated 28 September 2005 (Exhibit J), which itemizes a declaration, an assignment and a copy of the application as filed, and requests that Mr. de Roos execute and return the declaration. Petitioner also provides a copy of Mr. de Roos' e-mail response and attachment (Exhibit K) dated 03 October 2005. Neither Mr. de Roos' statements nor his actions indicate a refusal to sign an oath or declaration after having been presented with the oath or declaration and a complete copy of the application. Rather, his 03 October 2005 e-mail response and attachment suggest that he might be willing to execute the declaration if certain conditions are met. In the absence of convincing evidence that Mr. de Roos refuses to sign the declaration (or that he cannot be found or reached after diligent effort), it would not be appropriate to grant the requested relief.

In response, petitioner requests reconsideration, arguing (in part) that "Mr. De Roos' e-mail of 03 October 2005, in the context of the totality of circumstances, is tantamount to a

refusal to sign the declaration." Upon reconsideration of the evidence of record, including Mr. De Roos' email referenced by petitioner, it would be appropriate to conclude that, within the meaning of 37 CFR 1.47(a), Mr. De Roos has "refused" to execute the declaration. Therefore, requirement (2) is considered to have been satisfied.

DECISION

The petition under 37 CFR 1.47(a) is **GRANTED**.

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the non-signing inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

The application is being returned to the Office of Patent Application Processing for processing as the U.S. National Stage of the above-identified international application. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **28 January 2005** (the date an acceptable declaration was filed).

/George Dombroske/
George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459

2 7 APR 2009

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

Mike De Roos
Topasvägen 5
196 33
Kungsängen
SWEDEN

In re Application of
Zapka et al.
Application No.: 10/380,036
PCT No.: PCT/GB01/04307
Int. Filing Date: 26 September 2001
Priority Date: 26 September 2000
Attorney Docket No.: 27392/22702
For: Droplet Deposition Apparatus

Dear Mr. De Roos:

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) 272-3283. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Requests for 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).

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Mail Stop PCT, P.O. Box 1450, Alexandria, VA 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

/George Dombroske/
George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459

cc: James P. Zeller
Marshall, Gerstein & Borun
6300 Sears Tower
233 South Wacker Drive
Chicago, IL 60606-6357

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

OFFICIAL GAZETTE NOTICE

37 CFR 1.47 Notice by Publication

Notice is hereby given of the filing of an application with a petition under 37 CFR 1.47 requesting acceptance of the application without the signature of a joint inventor. The petition has been granted. A notice has been sent to the last known address of the non-signing inventor. The inventor whose signature is missing (Mike DE ROOS) may join in the application by promptly filing an appropriate oath or declaration complying with 37 CFR 1.63. The international application number is PCT/GB01/04307 and was filed on September 26, 2001 in the names of Werner ZAPKA, Bosse NILSSON, Mike DE ROOS and Juergen BRUENAHL for the invention entitled DROPLET DEPOSITION APPARATUS. The national stage application number is 10/380,036 and has a 35 U.S.C. 371(c)(1), (2) and (4) date of January 28, 2005.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Hanify & King, P.C.
1875 K Street
Suite 707
WASHINGTON DC 20006

COPY MAILED

OCT 0 9 2008

OFFICE OF PETITIONS

In re Application of :
Jorgen BJORKNER :
Application No. 10/380,074 : DECISION ON PETITION
Filed: October 06, 2003 :
Attorney Docket No. **000500-356** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 13, 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 25, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on December 26, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of 1540, and (3) a proper statement of unintentional delay. Accordingly, the reply to the non-final Office action of September 25, 2007 is accepted as having been unintentionally delayed.

The power attorney filed with petition on May 13, 2008 has been accepted and made of record.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1050 extension of time fee submitted with the petition on May 13, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at (571) 272-2783.

This application is being referred to Technology Center AU 2155 for appropriate action on the concurrently filed amendment.

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

STEPHEN M. DE KLERK
BLAKELY SOKOLOFF TAYLOR & ZAFMAN
SEVENTH FLOOR
12400 WILSHIRE BOULEVARD
LOS ANGELES, CA 90025-1026

COPY MAILED

FEB 0 2 2006

OFFICE OF PETITIONS

In re Application of :
Tae-Hwan Ha :
Application No. 10/380,075 : ON PETITION
Filed: July 7, 2003 :
Attorney Docket No. 6546P001 :

This is a decision on the petition under 37 CFR 1.181, filed January 23, 2006, to withdraw the holding of abandonment.

This application became abandoned for failure to timely file a proper reply to the non-final Office action mailed March 9, 2005. A two month extension of time having been obtained pursuant to the provisions of 37 CFR 1.136(a), the date of abandonment of this application is August 10, 2005. A Notice of Abandonment was mailed on October 18, 2005.

Petitioner asserts that an amendment was timely submitted with a Certificate of Mailing under 37 CFR 1.8 on August 9, 2005. In support, petitioner has submitted a date-stamped postcard receipt that indicates receipt of an amendment on August 12, 2005.

However, a review of application file indicates that the amendment submitted on August 12, 2005 (Certificate of Mailing date: August 9, 2005), was erroneously identified by applicant on the "Amendment Transmittal" as papers for application no. 10/3**08**,075 and not 10/3**80**,075. Unfortunately, the amendment was placed in the application file of 10/308,075.

Please note MPEP 502:

> "A minor error in the identification of the application can be corrected by the Office provided the correct identification can be quickly discovered. Examples of minor errors are transposed numbers, typographical errors, and listing the parent application number. The failure to give any application number is not a minor error. The Office often experiences difficulty in matching incoming papers with the application file to which they pertain because insufficient or erroneous information is given. This applies especially to amendments, powers of attorney, changes of address, status letters, petitions for extension of time, and other petitions."

Accordingly, the petition is granted and the holding of abandonment is withdrawn.

Petitioner should take care in the identification of papers submitted to the USPTO as errors in the identification may lead to delays in the examination process.

The papers erroneously submitted under application no. 10/308,075 have been moved to the instant application, application no. 10/380,075.

This application is being forwarded to Technology Center 3600, for review of the amendment, originally filed August 12, 2005 (Certificate of Mailing date: August 9, 2005).

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Hovey Williams LLP
2405 Grand Boulevard, Suite 400
Kansas City, MO 64108

COPY MAILED
FEB 07 2005
OFFICE OF PETITIONS

In re Patent No. 6,772,787	:	
Issue Date: August 10, 2004	:	
Application No. 10/380,076	:	ON PETITION
Filed: March 6, 2003	:	
Attorney Docket No. 33307	:	

This is a decision on the petition filed November 30, 2004, 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 referred to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3223. 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

OCT 12 2006

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

J. Wendy Davis, Ph.D.
HOWREY LLP
1111 Louisiana, 25th Floor
Houston, Texas 77002

In re Application of	:	
Guzov et al	:	Decision on Petition
Serial No.: 10/380,077	:	
Filed : 7 March 2003	:	
Attorney Docket No.: 11899.0227.PCUS00	:	

This letter is in response to the Petition under 37 C.F.R. 1.144 filed on 21 September 2006 requesting reconsideration of the restriction requirement.

BACKGROUND AND DISCUSSION

In the Office action mailed 28 July 2005, the examiner withdrew newly submitted claim 42 as being directed to an invention that was not originally presented. In the subsequent Office action, the examiner has requested cancellation of claim 42 as being drawn to a non-elected invention. Yet the examiner has examined claims 40 and 41 as being directed to the elected invention. Claims 40-42 are set forth below.

> 40. (Previously presented) The insecticidal composition of claim 36, wherein the composition is a fusion protein of SEQ ID NO:2 and SEQ ID NO:4.
>
> 41. (Previously presented) The insecticidal composition of claim 40, wherein SEQ ID NO:2 and SEQ ID NO:4 are fused using a linker sequence.
>
> 42. (Previously presented) The insecticidal composition of claim 40, wherein the fusion protein is SEQ ID NO:6, SEQ ID NO:8, SEQ ID NO:10 or SEQ ID NO:33.

Claim 42 depends upon and includes all the limitations of claim 40.

The petition maps out the relationship between elected invention, proteins comprising SEQ ID Nos 2 and 4 and withdrawn inventions, proteins comprising SEQ ID Nos 6, 8, 10 or 33. As shown below, SEQ ID Nos 6, 8, 10 and 33 all require SEQ ID No 2 and/or 4.

Fusion Proteins of SEQ ID NO:2 and SEQ ID NO:4

SEQ ID NO	Description of Fusion Expression Cassette
SEQ ID NO:6	(SEQ ID NO:4)-GG-(SEQ ID NO:2)
SEQ ID NO:8	(SEQ ID NO:2)-GSGGAS-(SEQ ID NO:4)
SEQ ID NO:10	(SEQ ID NO:2)-GG-(SEQ ID NO:4)
SEQ ID NO:33	(SEQ ID NO:4)-GSGGAS-(SEQ ID NO:2)

Overlap in scope between claims is addressed in two sections of the MPEP, 806.03 and 806.04(f).

MPEP 806.03 Single Embodiment, Claims Defining Same Essential Features

> Where the claims of an application define the same essential characteristics of a single disclosed embodiment of an invention, restriction therebetween should never be required. This is because the claims are not directed to distinct inventions; rather they are different definitions of the same disclosed subject matter, varying in breadth or scope of definition.

MPEP 806.04(f) Restriction Between Mutually Exclusive Species

> Where two or more species are claimed, a requirement for restriction to a single species may be proper if the species are mutually exclusive. Claims to different species are mutually exclusive if one claim recites limitations disclosed for a first species but not a second, while a second claim recites limitations disclosed only for the second species and not the first. This may also be expressed by saying that to require restriction between claims limited to species, the claims must not overlap in scope.

In this application, the proteins having the sequences described in Claim 42 are subsets of the protein having sequences described in Claim 40. Claim 40 encompasses fully within its scope, the subject matter of claim 42. As such, the restriction requirement set forth between SEQ ID No 6, 8, 10 and 33 from already-examined SEQ ID No 2 and 4 was improper.

DECISION

For the above reasons, the petition filed under 37 CFR 1.144 is **GRANTED**.

The restriction requirement set forth in the Office action mailed 28 July 2005 has been withdrawn.

The finality of the Office action mailed 18 July 2006 was been withdrawn because the Office action did not address all the claims directed to the elected invention.

The application will be forwarded to the examiner to consider the response filed 18 July 2006 and to examine claim 42.

Should there be any questions regarding this decision, please contact Special Program Examiner Julie Burke, by mail addressed to Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at (571) 272-1600 or by Official Fax at 703-872-9306.

John LeGuyader
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
www.uspto.gov

KIRSCHSTEIN, OTTINGER, ISRAEL
& SCHIFFMILLER, P.C.
489 FIFTH AVENUE
NEW YORK, NY 10017

COPY MAILED

FEB 06 2008

OFFICE OF PETITIONS

In re Application of	:	
Kenneth Primrose, et al.	:	
Application No.: 10/380,082	:	ON PETITION
Filed: September 23, 2003	:	
Attorney Docket No.: P/63111	:	

This is a decision on the petition, filed January 30, 2008, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 28 2008, in the above-identified application, cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2611 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement (IDS).

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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

December 2, 2008

Leonard R. Svensson
BIRCH, STEWART, KOLASCH & BIRCH, LLP
12770 High Bluff Drive
Suite 260
San Diego, CA 92130

Patent No.: 7,390,875 B2
Application No.: 10/380,094
Inventor(s): Dominique Bonnet, et al.
Issued: June 24, 2008
Title: **METHOD FOR BINDING, IN SOLUTION, A PEPTIDE AND A LIPOPHILIC VECTOR AND USES THEREOF**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this matter, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and

C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-0025
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Virginia Tolbert
For Mary Diggs, Supervisor
Decisions & Certificate of Correction Branch
(703) 305-8309 or (703) **308-9390 ext 113**

vt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

MAILED

APR 17 2009

OFFICE OF PETITIONS

ON PETITION

In re Patent No. 7,390,875	:	
Issue Date: June 24, 2008	:	
Application No. 10/380,094	:	
Filed: March 7, 2003	:	
Attorney Docket No. 1217-0612P	:	

This is a decision on the petition filed February 10, 2009 and supplemented March 18, 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 the April M. Wise at (571) 272-1642. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

---

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

30 JUL 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

Judith M. Riley
Gifford, Krass, Groh, Sprinkle,
Anderson & Citkowski, P.C.
280 N. Old Woodward Ave., Ste. 400
Birmingham, MI 48009

In re Application of	DECISION ON
FISHER, Hugh Edward	
Application No.: 10/380,101	
PCT No.: PCT/GB01/03631	PETITION UNDER
Int. Filing Date: 13 August 2001	
Priority Date: 15 August 2000	37 CFR 1.10 (c)
Attorney's Docket No.: CAF-31102/03	
For: IMPROVED CAM OPERATED DEVICES	

This decision is in response to applicant's fax of 30 March 2004 which is a copy of the "PETITION TO CORRECT RECEIPT OF 35 U.S.C. 371 REQUIREMENTS DATE," faxed on 29 October 2003, which is being treated as a petition under 37 CFR 1.10 (c) requesting that the 371(c)(1), (c)(2), and (c)(4) date of 22 August 2003 be changed to 21 August 2003 for the above identified application.

BACKGROUND

This petition is to correct the 371(c)(1), (c)(2), and (c)(4) date of the above application that was purported to have met all of the requirements under 35 U.S.C. 371 on 21 August 2003 since an executed declaration was submitted on such date.

On 29 October 2003, petitioner filed the present petition. The petition includes, *inter alia*, a copy of the customer receipt "Express Mail" Label No.: EV 339613682 US with a "date in" of 21 August 2003.

DISCUSSION

37 CFR 1.10(c) provides:

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

(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.

The petition was filed promptly. 37 CFR 1.10(c)(1). In addition, a review of the application papers reveals that "Express Mail" Label No. EV 339613682 US was hand written on the PTO transmittal letter (PTO-1382). CFR 1.10(c)(2). Finally, the copy of the customer receipt of "Express Mail" Label No. EV 339613682 US filed with the present petition identifies the day of deposit as "21 August 2003." 37 CFR 1.10(c)(3). Accordingly, the requirements under 37 CFR 1.10(c) have been satisfied.

The date of receipt of the executed declaration for the above application is 21 August 2003, which is the date that petitioner satisfied the requirement under 35 U.S.C. 371(c)(4). Accordingly, this is the date that all of the requirements under 35 U.S.C. 371 have been satisfied.

The Notification of Acceptance (Form PCT/DO/EO/903) mailed on 15 September 2003 is **VACATED** with the mailing of this decision.

CONCLUSION

For reasons above, the petition under 37 CFR 1.10(c) is **GRANTED.**

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing under 35 U.S.C. 371 including the preparation and mailing of a Notification of Acceptance (Form PCT/DO/EO/903) and filing receipt. The 35 USC 371(c)(1), (c)(2), and (c)(4) date of this application is **21 August 2003.**

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Tel: (703) 308-6312
Fax: (703) 308-6459

Leonard Smith
PCT Legal Examiner
PCT Legal 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

AUG 18 2005

ROTHWELL, FIGG, ERNST & MANBECK, P.C.
1425 K STREET, N.W.
SUITE 800
WASHINGTON DC 20005

In re Application of	:
Ben Gao	:
Serial No.: 10/380,112	: PETITION TO MAKE SPECIAL
Filed: March 11, 2003	:
Attorney Docket No.: 2858-106	:

This is in response to applicant's petition filed August 5, 2005, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, VIII. Therefor the petition is **GRANTED**.

The following condition applies to the grant of this petition: If, upon examination, it is determined that a restriction requirement is necessary because of multiple inventions being claimed, applicant will be required to make an election without traverse of a single invention to be prosecuted. Failure to make an election without traverse will void the special status accorded in this decision.

The application will be forwarded the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at the general Office facsimile number, 571-273-8300.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/380,113	03/11/2003	Adolf Bernds	411000.106	1307

27162 7590 02/29/2008
CARELLA, BYRNE, BAIN, GILFILLAN, CECCHI,
STEWART & OLSTEIN
5 BECKER FARM ROAD
ROSELAND, NJ 07068

EXAMINER
MONDT, JOHANNES P

ART UNIT	PAPER NUMBER
3663	

MAIL DATE	DELIVERY MODE
02/29/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED
FROM DIRECTORS OFFICE

FEB 29 2008

TECHNOLOGY CENTER 3600

CARELLA, BYRNE, BAIN, GILFILLAN, CECCHI,
STEWART & OLSTEIN
5 BECKER FARM ROAD
ROSELAND NJ 07068

In re Application of Adolf Bernds et al Application No. 10/380,113 Filed: March 11, 2003 For: ORGANIC RECTIFIER, CIRCUIT, RFID TAG AND USE OF AN ORGANIC RECTIFIER	DECISION ON PETITION TO REVIEW RESTRICTION REQUIREMENT UNDER 37 CFR 1.144

This is a decision on applicant's petition on the propriety of the restriction/election under 37 CFR 1.144, filed in the United States Patent and Trademark Office, on February 11, 2008.

The petition is **GRANTED**.

BACKGROUND

A thorough review of the file reveals that an election of species was mailed to applicant on September 21, 2006.

Applicant on October 6, 2006 elected with traverse.

PETITION

Applicant's petition states the following: (1) that species 1 and 2 are *not* different species, but merely the same disclosed subject matter, varying in breath or scope of definition, and therefore a species election is not proper and (2) that species 1 and 2 are based solely on the claim language.

DISCUSSION

A thorough review of the restriction/election has been conducted. It is noted that the election was under US Rules. Application 10/380,113 falls under PCT Rules and should have therefore been a Lack of Unity.

Based on the above, the election between species 1 and 2 is deemed **improper**.

Note that review of the PCT/ISA/210 submitted March 11, 2003 citing X and Y references a Lack of Unity based on the claims would in fact be proper. That is, there is no special technical feature that defines a contribution, when considered as a whole, over the prior art of record. This also applies to the Selph patent (4445036) as cited in the Final office action.

SUMMARY: The petition is **GRANTED**.

The application is being forwarded to the examiner for withdrawal of the restriction/election under US Rules. The examiner is to evaluate the claims under PCT Lack of Unity rules. Any questions or comments with respect to this decision should be forwarded to Jack W. Keith, Supervisory Patent Examiner, at 571-272-6878.

Donald T. Hajec, Director
Patent Technology Center 3600
(571) 272-5150

jwk/tl: 02/27/08

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JAN 29 2009

CARELLA, BYRNE, BAIN, GILFILLAN, CECCHI,
STEWART & OLSTEIN
5 BECKER FARM ROAD
ROSELAND NJ 07068

In re Application of Adolf Bernds et al Application No. 10/380,113 Filed: March 11, 2003 For: ORGANIC RECTIFIER, CIRCUIT, RFID TAG AND USE OF AN ORGANIC RECTIFIER	: : : : :	DECISION ON THE PETITION UNDER 37 CFR 1.144

This is a decision on applicant's petition on the propriety of the restriction/election under 37 CFR 1.144, filed in the United States Patent and Trademark Office, on November 12, 2008.

The petition is **GRANTED**.

BACKGROUND

A thorough review of the file reveals that a Lack of Unity of species was mailed to applicant on August 15, 2008.

Applicant on September 3, 2006 elected with traverse.

PETITION

Applicant's petition states the following: (1) that no claims are directed to species set forth by the examiner and (2) that applicants claim language meets PCT Rule 13.1 wherein the special technical feature defines a contribution over the prior art.

DISCUSSION

A thorough review of the Lack of Unity has been conducted.

It is noted that a Lack of Unity must be established in relation to the claim language and not the disclosure. The examiner improperly referenced the figures and the specification in regard to species 1 and 2.

Based on the above the election between species 1 and 2 is deemed **improper**.

With regard to the special technical feature review of the PCT/ISA/210 reveals prior art (x and y references) that clearly indicates there is no special technical feature.

SUMMARY: The petition is **GRANTED**.

The application is being forwarded to the examiner for withdrawal of the Lack of Unity. Any questions or comments with respect to this decision should be forwarded to Jack W. Keith, Supervisory Patent Examiner, at 571-272-6878.

Kathy Matecki

Kathy Matecki, Director
Patent Technology Center 3600
(571) 272-5250

jwk/tl: 01/08/09
TL

09 SEP 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Akzo Nobel Inc
Intellectual Property Department
7 Livingstone Avenue
Dobbs Ferry NY 10522-3408

In re Application of
DAVIES et al.
Application No.: 10/380,129
PCT No.: PCT/EP01/10552
Int. Filing Date: 11 September 2001
Priority Date: 13 September 2000
Attorney Docket No.: ACO2829P1US
For: PRIMER COATING OF STEEL

DECISION ON PAPERS

UNDER 37 CFR 1.42

This is a decision on the submission filed by applicants on 20 June 2003, which was accompanied by, *inter alia*, a declaration of inventors. The indication in this declaration that joint inventor Davies is deceased has been treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 11 September 2001, applicants filed international application PCT/EP01/10552, which claimed a priority date of 13 September 2000. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 21 March 2002. The thirty-month period for paying the basic national fee in the United States expired at midnight on 13 March 2003.

On 11 March 2003, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, *inter alia*, the basic national fee.

On 30 May 2003, the United States Patent and Trademark Office (USPTO) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE U.S. DESIGNATED/ELECTED OFFICE (DO/EO/US) (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the earliest priority date were required. The NOTIFICATION set a two-month extendable time period for reply.

On 20 June 2003, applicants filed the instant submission, which was accompanied by, *inter alia*, the surcharge under 37 CFR 1.492(e) and a declaration signed by two of the three inventors and signed by Gillian Diane Davies as "executrix of the last will and testament of" of deceased inventor Gerald Howard Davies. This declaration also lists the residence, citizenship and mailing

Application No.: 10/380,129

address of Gillian Diane Davies (on "ADDED PAGE TO COMBINED DECLARATION AND POWER OF ATTORNEY FOR SIGNING BY ADMINISTRATOR(TRIX), EXECUTOR(TRIX) OR LEGAL REPRESENTATIVE ON BEHALF OF DECEASED OR INCAPACITATED INVENTOR (37 C.F.R. § 1.42 AND 1.43)") and Gerald Howard Davies (on page 2 of declaration).

DISCUSSION

The submission filed 20 June 2003 has been reviewed and has been found in compliance with 37 CFR 1.42 and 37 CFR 1.497(a)-(b).

CONCLUSION

The papers filed under 37 CFR 1.42 on 20 June 2003 are **ACCEPTED**.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application including according the application a 35 U.S.C. 371(c) date of **20 June 2003**.

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (703) 308-2066
Facsimile: (703) 308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

KENYON & KENYON LLP
ONE BROADWAY
NEW YORK NY 10004

COPY MAILED

OCT 2 7 2009

OFFICE OF PETITIONS

In re Application of	:	
Gerald Howard Davies, et al.	:	
Application No. 10/380,129	:	DECISION ON PETITION
Filed: June 20, 2003	:	
Attorney Docket No. 13877/34201	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 11, 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, December 19, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on March 20, 2009. The Notice of Abandonment was mailed June 26, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 1792 for appropriate action by the Examiner in the normal course of business on the reply received

Terri Johnson

Terri Johnson
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

17 SEP 2003

Lainie E. Parker
Akzo Nobel Inc.
Intellectual Property Department
7 Livingstone Avenue
Dobbs Ferry, NY 10522-3408

In re Application of	:	
DAVIES, Gerald Howard et al.	:	DECISION ON
Application No.: 10/380,130	:	
PCT No.: PCT/EP01/10635	:	REQUEST
Int. Filing Date: 13 September 2001	:	
Priority Date: 13 September 2000	:	UNDER 37 CFR 1.42
Attorney's Docket No.: ACO2828P1US	:	
For: PRIMER COATING OF STEEL	:	

This decision is in response to applicant's second submission under 35 USC 371 filed in the United States Patent and Trademark Office on 20 June 2003. The declaration includes an indication that joint inventor Gerald Howard Davies is deceased. It has been treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 13 September 2001, applicant filed international application PCT/EP01/10635. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 21 March 2002. On 12 March 2002, a demand for international preliminary examination was filed within nineteen months from the priority date. As such, the deadline for entry into the national stage in the United States was 13 March 2003..

On 11 March 2003, applicant filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 30 May 2003, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the surcharge for late filing of the oath or declaration were required.

On 20 June 2003, applicant submitted an executed declaration.

DISCUSSION

Under 35 U.S.C. §117, legal representatives of deceased inventors may make application for patent upon compliance with the requirements and on the same terms and conditions applicable to the inventor. The "legal representative (executor, administrator, etc.) of the

deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent." 37 CFR 1.42.

In this case, the declaration is executed by the Executor for the deceased inventor and remaining inventor/applicant. It provides the necessary information for the deceased inventor, the legal representative and the applicant/inventor. The declaration complies with both 37 CFR 1.497(a)-(b) and 37 CFR 1.42

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **GRANTED**.

The application has an international filing date of 13 September 2001 under 35 U.S.C. §363 and a date of 20 June 2003 under 35 U.S.C. §371. This application is being forwarded to the National Stage Processing Division of the Office of the PCT Operations for continued processing.

Leonard E. Smith
PCT Legal Examiner
PCT Legal Administration

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: (703) 305-0455
Facsimile: (703) 308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAR 11 2005

NIXON & VANDERHYE, PC
1100 N GLEBE ROAD
8TH FLOOR
ARLINGTON VA 22201-4714

In re Application of	:
Michael Geiger et al	:
Serial No.: 10/380,132	: STATUS LETTER
Filed: March 11, 2003	:
Attorney Docket No.: 3557-25	:

This is in response to the request, filed February 17, 2005, to withdraw from representation in the above identified application.

Insofar as can be determined the above identified attorney and those listed on the attached request has never been appointed to represent the above identified applicants in this application. Therefor no withdrawal can be effected.

The request to withdraw is **DISMISSED**.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at Office facsimile number.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

cc:

JAESCHKE,WAYNE
MORRISON AND FOERSTER LLP
1650 TYSONS BLVD STE 300
MCLEAN, VA 22102

OIPE JC11
FEB 17 2005
PATENT & TRADEMARK OFFICE

PTO/SB/83 (05-03)
Approved for use through 11/30/2005. OMB 0651-0035
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT

Application Number	10/380,132
Filing Date	March 11, 2003
First Named Inventor	Michael Geiger
Art Unit	1645
Examiner Name	Not yet assigned
Attorney Docket Number	532622002100

To: Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

I hereby apply to withdraw as attorney or agent for the above identified patent application.

The reasons for this request are:
Application is being transferred to another attorney.

This request is being made at the request of the assignee, **SunGene GmbH & Co. KGaA**

1. [ ] The correspondence address is NOT affected by this withdrawal.
2. [ ] Change the correspondence address and direct all future correspondence to:

NOT APPROVED

CORRESPONDENCE ADDRESS

[ ] Customer Number [ ] → [ ]

OR

[X] Firm or Individual Name	James Remenick (Powell Goldstein LLP)				
Address	901 New York Avenue, NW Third Floor				
City	Washington	State	DC	Zip	20001-4413
Country	USA				
Telephone	(202)347-0066			Fax	(202) 624-7222

[X] This request is made on behalf of myself and
- [ ] all the attorneys/agents of record,
- [ ] the attorneys/agents (with registration numbers) listed on the attached paper(s), or
- [X] the attorneys/agents associated with Customer Number 25227

This request is enclosed in **triplicate** (including any attachments).

Name	Wayne C. Jaeschke, Jr. Registration No. 38,503
Signature	
Date	February 17, 2005

NOT OF RECORD

NOTE: Withdrawal is effective when approved rather than when received. Unless there are at least 30 days between approval of withdrawal and the expiration date of a time period for response or possible extension period, the request to withdraw is normally disapproved.

I hereby certify that this correspondence is being deposited with the U.S. Postal Service with sufficient postage as First Class Mail, in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown below.

Dated: February 17, 2005 Signature: _____ (Chimin Taylor)

va-93957

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JAN 12 2005

FISH & RICHARDSON PC
225 FRANKLIN ST
BOSTON MA 02110

In re Application of	:
Roman M. Chicz et al	:
Serial No.: 10/380,136	: PETITION DECISION
Filed: March 11, 2003	:
Attorney Docket No.: 08191-019	:

This is in response to the petition under 37 CFR 1.181, filed October 25, 2004, for withdrawal of abandonment of the above identified application.

A review of the file history shows that the examiner mailed an Office action to applicants on January 14, 2004, setting a one month shortened statutory period for reply and requiring restriction between claims 1-17. The application contains claims 1-63, however. Applicants conducted telephone interviews with the examiner on January 22 and February 6, 2004, the result of which was that the examiner would withdraw the Office action as improper and directed to another application file, and would transfer the application to another examiner. The examiner agreed that applicants did not have to reply to the outstanding Office action. No interview summaries by the examiner exist in this file, however the facts noted above are accurate and the Office action refers to claimed inventions not present in this application. Following transfer of the file to another examiner a Notice of Abandonment was mailed to applicants on October 4, 2004, based on failure to timely reply to the outstanding Office action. However, as no reply was required, the Notice was mailed in error. In view of the above facts the Notice of Abandonment is withdrawn and the application is restored to pending status with the mailing of this decision

The petition is **GRANTED**.

The application will be forwarded to the newly assigned examiner for further action.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number 571-273-8300.

Jasemine C. Chambers
Director, Technology Center 1600

17 FEB 2005

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

DARBY & DARBY
P.O. BOX 5257
NEW YORK, NEW YORK 10150-5257

In re Application of DELK et al. Application No.: 10/380,143 PCT No.: PCT/US01/29719 Int. Filing Date: 21 September 2001 Priority Date: 22 September 2000 Attorney Docket No.: 01780/100H129-US1 For: SURGICAL IRRIGATION SYSTEM	DECISION ON REQUEST FOR REFUND

This is a decision on applicant's "REQUEST FOR REFUND -OVERPAYMENT OF FILING FEES" pursuant to 37 CFR 1.26, filed in the United States Patent and Trademark Office (USPTO) on 25 February 2004, requesting refund of overpayment of the basic national fee.

On 10 March 2003, applicant filed a transmittal letter to enter national stage along with the basic national fee in the amount of fee $720.

On 25 February 2004, applicant filed a request for refund of an $620 overcharge in the $720 basic national fee paid for filing with a positive USPTO international preliminary examination report, where the basic national fee is $100.

A review of the application file reveals that on 11 February 2004, the USPTO did prepare a positive international preliminary examination report, where the claims meet PCT Article 33(1)-(4). The appropriate basic national fee in the above referenced application for filing with a positive USPTO international preliminary examination report where the claims meet PCT Article 33(1)-(4) is $100. A review of the finance records for this application reveals that applicant was charged $720 for the basic national fee, the fee for filing with a USPTO examination report where the claims do not meet PCT Article 33(1)-(4).

For the reasons above, applicants' request for refund of $620, filed 25 February 2004, is GRANTED. Applicant's deposit account No. 04-0100 will be refunded in the amount of $620. Applicant will be charged so that the full basic national fee of $100 (fee code 1612) will be paid.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

Telephone: 571-272-3286

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 S. SPECTOR
BACON & THOMAS PLLC
625 SLATERS LANE, FOURTH FLOOR
ALEXANDRIA, VA 22314

COPY MAILED

APR 0 7 2005

OFFICE OF PETITIONS

In re Application of	:
Jonathan S. Stamler et al	:
Application No. 10/380,172	: DECISION GRANTING PETITION
Filed: March 19, 2003	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. DUKE 1720	:

This is a decision on the petition, filed April 6, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on February 3, 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 1624 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Frances Hicks
Frances 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).*

17 SEP 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

BANNER & WITCOFF
1001 G STREET N W
SUITE 1100
WASHINGTON DC 20001

In Re Application of KOSSIDA Application No.: 10/380,173 PCT No.: PCT/EP01/10697 Int. Filing Date: 17 September 2001 Priority Date: 19 September 2000 Attorney Docket No.: 004974.00959 For: REGULATION OF HUMAN SERINE PALMITOYLTRANSFERASE-LIKE ENZYME	:	DECISION ON PETITION

This is a decision on applicant's "RESPONSE TO NOTIFICATION OF MISSING REQUIREMENTS" filed in the United States Patent and Trademark Office (USPTO) on 23 July 2004. This is also responsive to applicant's "Request for Corrected Filing Receipt" filed on 09 September 2003.

BACKGROUND

On 17 September 2001, applicant filed international application No. PCT/EP01/10697, which claimed a priority date of 19 September 2000 and which designated the United States. Thereafter, on 19 March 2003, before the expiration of the thirty month period, applicant filed, *inter alia*, a transmittal letter for entry into the national stage and the basic national stage filing fee.

Applicant also filed an executed declaration on 19 March 2003. On 16 July 2003, a Notification of Missing Requirements was mailed to applicant indicating that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a) and (b), was required. Thereafter, on 14 May 2003 and 30 July 2003, applicant sent a copy of the previously filed declaration along with a USPTO date stamped itemized postcard receipt. On 25 August 2003, a Notification of Acceptance Under 35 U.S.C. 371 and 37 CFR 1.495 (Form PCT/DO/EO/903) erroneously indicating a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 30 July 2003.

On 09 September 2003, applicant filed a request for a corrected filing receipt. On 23 July 2004, applicant filed the present request with a copy of the USPTO date-stamped itemized postcard receipt. Applicant urges that the Form 903 and filing receipt be corrected to indicate a filing date of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) filing date of 19 March 2003.

DISCUSSION

A review of the USPTO date-stamped, itemized postcard receipt indicates that the executed combined declaration and power of attorney was deposited with the USPTO on 19 March 2003. A review of the application in the USPTO's Image File Wrapper (IFW) file confirms that the executed declaration, in compliance with 37 CFR 1.497(a) and (b), was submitted on 19 March 2003.

The evidence of record is sufficient to establish with reasonable certainty that the combined declaration and power of attorney was filed with the USPTO on 19 March 2003. Applicant's request that a filing date under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) of 19 March 2003 be accorded application 10/380,173 is granted.

The actual filing date of the present application is considered to be the international filing date, 17 September 2001. The application file indicates that applicant completed the requirements set forth in 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) on 19 March 2003. The Notification of Acceptance (FORM PCT/DO/EO/903) mailed on 25 August 2003 indicated an improper 35 U.S.C. 371(c) (1), (c)(2) and (c)(4) date and is vacated. (Note MPEP section 1893.03(b).)

With regard to applicant's request for a corrected filing receipt, the request is granted. A new filing receipt will be issued which will indicate that the application claims benefit of 60/233,483 filed on September 19, 2000.

CONCLUSION

Applicant's request that 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 19 March 2003 be accorded application 10/380,173 is **GRANTED**.

The Notification of Acceptance (Form PCT/DO/EO/903) mailed on 25 August 2003 is hereby **VACATED**.

This application is being forwarded the US Designated/Elected Office for issuance of a corrected Notification of Acceptance (FORM PCT/DO/EO/903) indicating a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of **19 March 2003**. A new filing receipt will also be issued, which will indicate that the application claims benefit of 60/233,483 filed on September 19, 2000.

The application will then be forwarded for examination in due course.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (703)306-5467

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

24 JUL 2007

Robin W. Asher
Clark Hill
500 Woodward Avenue
Suite 3500
Detroit, Michigan 48226

In re Application of LAVOIE et al. Application No.: 10/380,184 PCT No.: PCT/US01/27649 Int. Filing Date: 07 September 2001 Priority Date: 07 September 2000 Attorney Docket No.: 19365-087621 For: TRIPLE OUTPUT TRANSFER CASE FOR A VEHICLE SEAT	DECISION ON PETITION UNDER 37 CFR 1.181

This decision is issued in response to applicants' 16 November 2005 "Petition Under 37 CFR 1.181(a) to Withdraw Holding of Abandonment" seeking to confirm a 07 July 2003 filing in response to the Notification Of Missing Requirements herein. No petition fee is required.

BACKGROUND

On 07 September 2001, applicants filed international application PCT/US01/27649 which designated the United States. On 14 March 2002, a copy of the international application was communicated to the United States Patent And Trademark Office ("USPTO") by the International Bureau ("IB"). Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States expired at midnight on 07 March 2003.

On 07 March 2003, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, among other materials, payment for the basic national fee; an assignment; and a copy of the international search report.

On 15 May 2003, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements Under 35 U.S.C. 371 indicating that an oath or declaration in compliance with 37 CFR 1.497 was required.

On 31 May 2005, the DO/EO/US mailed a Notification Of Abandonment (Form PCT/DO/EO/909) indicating that the application was abandoned with respect to the United States based on applicants' failure to respond to the Notification Of Missing Requirements.

On 16 November 2005, applicants filed the petition considered herein. The petition seeks confirmation of the 07 July 2003 filing of a response to the Notification Of Missing Requirements, including an executed declaration. This petition asserts that applicants filed a timely and complete response to the Notification Of Missing Requirements on 15 May 2003.

DISCUSSION

A review of the application file reveals that applicants' original "Response To Notification Of Missing Requirements" is present in the file. This response, which includes an executed declaration in compliance with 37 CFR 1.497(a) and (b), bears an 07 July 2003 receipt stamp. The Response states that it was accompanied by an authorization to charge Deposit Account the $130 as the surcharge required by the Notification Of Missing Requirements. Thus, applicants did in fact file a timely and adequate response to the Notification Of Missing Requirements on 15 May 2003. Accordingly, the Notification Of Abandonment mailed on 31 May 2005, which was based on a purported failure by applicants to respond to the Notification Of Missing Requirements, is hereby appropriately vacated.

CONCLUSION

Applicants' petition under 37 CFR 1.181(a) to Withdraw the holding of abandonment is **GRANTED**.

The Notification Of Abandonment (Form PCT/DO/EO/909) mailed on 31 May 2005 is hereby **VACATED**.

This application has an international filing date of 07 September 2001under 35 U.S.C. 363 and a date of 07 July 2003 under 35 U.S.C. 371(c).

This application is being forwarded to the National Stage Processing Branch of the PCT Operations Division for further processing in accordance with this decision, including issuance of a Notification Of Acceptance Of Application Under 35 U.S.C. 371 (Form PCT/DO/EO/903).

Anthony Smith

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-329
Fax: (571) 273-0459

17 JUL 20

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

Gregory L. Bradley
Medrad, Inc.
One Medrad Drive
Indianola, PA 15051

In re Application of SAVAGE	:	
U.S. Application No.: 10/380.188	:	
PCT Application No.: PCT/AU01/00830	:	
Int. Filing Date: 10 July 2001	:	DECISION
Priority Date Claimed: 10 July 2000	:	
Attorney Docket No.: VI/00-009.PCT.US	:	
For: IMPROVEMENTS RELATED TO	:	
MEDICAL INJECTOR SYSTEMS	:	

This is in response to applicant's "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 10 March 2003.

BACKGROUND

On 10 July 2001, applicant filed international application PCT/AU01/00830, which claimed priority of an earlier Australia application filed 10 July 2000. A copy of the international application was communicated to the USPTO from the International Bureau on 17 January 2002. A Demand for international preliminary examination, in which the United States was elected, was filed on 15 January 2002, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired on 10 January 2003.

International application PCT/AU01/00830 became abandoned as to the United States for failure to timely file the requisite basic national fee under 35 U.S.C. 371.

On 10 March 2003, applicant filed the present petition under 37 CFR 1.137(b).

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless

previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable

petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), applicant has provided the required basic national fee under 35 U.S.C. 371.

With regard to item (2), applicant has provided the required petition fee.

With regard to item (3), applicant has provided the required statement.

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.137(b) is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 10 July 2001, and a date under 35 U.S.C. 371(c) of 10 March 2003.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 703-308-6614
Facsimile: 703-308-6459

21 SEP 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

ROBERT C. KLINGER
JACKSON WALKER, LLP
2435 NORTH CENTRAL EXPRESSWAY
SUITE 600
RICHARDSON, TX 75080

In re Application of JONES et al. Application No.: 10/380,189 Filing Date: 07 March 2003 Attorney's Docket No.: 107687-00006 For: METHOD AND DEVICE FOR TREATMENT OF SKIN CONDITION	DECISION ON PETITION

This is a decision in response to applicant's "Petition for Withdrawal of Application" filed in the United States Patent and Trademark Office (USPTO) on 28 March 2003, treated as a "PETITION UNDER 37 CFR § 1.182" and in response to communications filed on 27 May 2004 and 21 June 2004.

On 07 March 2003, applicants filed a transmittal letter requesting entry into the national stage in the United States of United Kingdom patent application 0301737.3 UK, having an filing date of 24 January 2003, and which was accompanied by, inter alia,: the basic national fee and declaration.

The 28 March 2003 petition requested withdrawal of the above identified application indicating that applicant inadvertently filed the application papers under 35 U.S.C. 371 and has now properly filed under 37 CFR 1.53 as a national application claiming priority of a United Kingdom national patent application. Applicant also requested the refund of fees paid.

Thereafter, on 27 May 2004, applicant filed a communication requesting withdrawal of the earlier-filed petition to convert the National Patent Application filed under 35 U.S.C. §371 to be processed under 37 CFR§1.53. Applicant requests that the original filing be maintained including the serial number and filing date and be processed accordingly.

Since the application papers were not previously filed as an international application filed under the Patent Cooperation Treaty, applicant is not entitled to rely on the present papers to enter the national stage in the United States. The transmittal letter of 07 March 2003 was clearly an application for a United States patent. Applicant erred in identifying the application as a national stage application. The application papers contained all the elements necessary to obtain a filing date under 35 U.S.C. 111(a) and 37 CFR 1.53(b). Since applicants cannot proceed under 37 U.S.C. 371 and applicants have filed the necessary papers under 35 U.S.C. 111(a), it is appropriate in this instance to grant applicants' petition under 37 CFR 1.182 to accept the papers filed on 07 March 2003 as an application filed under 35 U.S.C. 111(a).

The above-noted petition is **GRANTED**. This application is being forwarded to Office

of Initial Patent Examination for processing as an application filed under 35 U.S.C. 111(a) with a filing date of 07 March 2003.

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

Telephone: (703) 306-5467

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.
10/380,190	03/07/2003	Robert W Reams	013646.00005	4554

33649 7590 02/02/2009
Mr. Christopher John Rourk
Jackson Walker LLP
901 Main Street, Suite 6000
DALLAS, TX 75202

EXAMINER
LEE, PING

ART UNIT	PAPER NUMBER
2614	

MAIL DATE	DELIVERY MODE
02/02/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Jackson Walker L.L.P
901 Main Street, Suite 6000
Dallas, Texas 75202

In re Application of:	:	
Robert Reams et. al.	:	
Application Serial No.: 10/380,190	:	DECISION
Filed: March 7, 2003	:	ON PETITION
For: **SYSTEM AND METHOD FOR PROCESSING**	:	
AUDIO DATA	:	

This is a decision on the petition, under 37 C.F.R. §1.181, filed on October 1, 2008 requesting that this instant application be immediately forwarded to the Board of Patent Appeals and Interferences for docketing.

A review of the record indicates that Reply Brief was filed November 29, 2007 and was noted by the Examiner on December 26, 2007. There was an Order Returning Undocketed Appeal to Examiner mailed December 12, 2008 for consideration and response to this instant petition.

Accordingly, the petition is **DISMISSED AS MOOT**.

The application file is being returned to the Board of Patent Appeals and Interferences for docketing in due course.

____/Doris To/_____
Doris To
Quality Assurance Specialist
Technology Center 2600
Communications

03 MAR 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

#6

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Griffin & Szipl, P.C.
2300 Ninth Street, South
Suite PH-1
Arlington, VA 22204

In re Application of GÜNTHER et al. Application No.: 10/380,192 PCT No.: PCT/EP01/09680 Int. Filing Date: 22 August 2001 Priority Date: 22 August 2000 Attorney Docket No.: 5725-4 For: METHOD AND DEVICE FOR THE MEASUREMENT OF CHEMICAL AND/OR BIOLOGICAL SAMPLES	DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 16 December 2004 in the above-captioned application is hereby **GRANTED** as follows:

Applicants' statement that the "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicants have submitted an executed declaration and power of attorney and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision.

Anthony Smith

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
Fax: (571) 273-0459

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

COPY MAILED

MAY 0 2 2007

OFFICE OF PETITIONS

JAIME CARRILLO
9439 THATCHER HALL COURT
CHARLOTTE, NC 28277-2084

In re Application of	:	
Jaime Ramiro Carrillo	:	
Application No. 10/380,194	:	DECISION ON PETITION
Filed: April 22, 2004	:	
Attorney Docket No.	:	

This is a decision on the petition, filed August 28, 2006, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision should be filed within two (2) months from the mail date of this decision. *Note* 37 CFR 1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 CFR 1.181 to Withdraw the Holding of Abandonment."

This application was held abandoned for failure to reply to the nonfinal Office action mailed December 8, 2005, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on July 25, 2006.

Petitioner asserts that the Office action dated December 8, 2005 was not received.

A review of the written record indicates no irregularity in the mailing of the Office action, and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

1. a statement from practitioner stating that the Office action was not received by the practitioner;

2. a statement from the practitioner attesting to the fact that a search of the file jacket

and docket records indicates that the Office action was not received; and

3. a copy of the docket record where the nonreceived Office action would have been entered had it been received must be attached to and referenced in the practitioner's statement.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition fails to satisfy all of the above-stated requirements.

Accordingly, absent the required evidence to establish nonreceipt of the Office action of December 8, 2005, the petition requesting withdrawal of the holding of abandonment cannot be granted at this time.

If petitioner cannot supply the evidence necessary to withdraw the holding of abandonment, or simply does not wish to, petitioner should consider filing a petition under 37 CFR 1.137(b) stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $750 petition fee.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile: **(571) 273-8300**
Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petition Examiner
Office of Petitions

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

Kirk A Vander Leest
McAndrews Held & Malloy
500 W Madison Street
Suite 3400
Chicago IL 60661

COPY MAILED

DEC 14 2004

OFFICE OF PETITIONS

Applicant: Heubner et al.
Appl. No.: 10/380,209
International Filing Date: September 13, 2001
Title: METHOD FOR REGULATING THE BRAKE POWER ON THE WHEELS OF A SINGLE-TRACK VEHICLE AND BRAKE SYSTEM FOR CARRYING OUT SAID METHOD
Pub. No.: US 2004/0046444 A1
Pub. Date: March 11, 2004

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), filed on May 11, 2004, for the above-identified application.

The request is granted.

The corrected patent application publication will be published in due course, unless the patent issues before the application republishes.

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709.

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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

Kirk A Vander Leest
McAndrews Held & Malloy
500 W Madison Street
Suite 3400
Chicago, IL 60661

COPY MAILED
AUG 22 2008

In re Application of Heubner et al. :
Application No. 10/380,209 : Decision on Petition
Filing Date: September 8, 2003 :
Attorney Docket No. 14765US01 :

This is a decision on the petition under 37 CFR 1.181 filed June 9, 2008, requesting the Office withdraw the holding of abandonment.

The petition is **granted.**

The Office mailed a non-final Office action on December 2, 2004. The Office action set a three-month shortened statutory period for reply.

On June 7, 2005, the Office mailed a Notice of Abandonment stating the Office never received a reply to the December 2, 2004 Office action.

A review of the Office's records indicates the Office received a reply to the Office action and payment for a three-month extension of time on June 2, 2005, and that the reply was matched with the file. Therefore, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Technology Center Art Unit 3683 will be informed of the instant decision and the examiner will review the papers filed June 2, 2005, in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

29 MAR 2005

#5

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

Ackerman, Paul D.
Baker Botts
30 Rockefeller Plaza
New York NY 10112

In re Application of	:	
KAUFMAN, Arie E. et al.	:	
Application No.: 10/380,210	:	DECISION ON
PCT No.: PCT/US01/30942	:	
Int. Filing Date: 02 October 2001	:	PETITION
Priority Date: 02 October 2000	:	
Attorney Docket No.: A33572-PCT-H-USA	:	UNDER 37 CFR 1.181
For: ENHANCED VIRTUAL NAVIGATION	:	
AND EXAMINATION	:	

This decision is in response to "Petition For Revival of an Application For Patent Abandoned Unavoidably Under 37 CFR 1.137(a)," filed in the United States Patent and Trademark Office on 03 December 2004. It has been treated as a petition under 37 CFR 1.181, as discussed below.

BACKGROUND

On 02 October 2001, applicants filed international application PCT/US01/30942, claiming a priority date of 02 October 2000. The deadline for entry into the national stage in the United States was 02 April 2003.

On 12 March 2003, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 15 July 2003, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) was required.

On 28 July 2004, the Office mailed Notification of Abandonment (Form PCT/DO/EO/909) indicating the application went abandoned for failure to timely reply to the Notification of Missing Requirements mailed 15 July 2003.

On 03 December 2004, applicants submitted the petition under 37 CFR 1.181.

DISCUSSION

A review of the petition reveals that applicant alleges that the mailed correspondence was never received. Applicant is acting on a copy of the Notification of Missing Requirements sent to applicant by facsimile. The petition is being treated as a nonreceipt of the office action under MPEP 711.03(c).

The showing required to establish nonreceipt of an Office communication is set forth in the notice entitled *Withdrawing the Holding of Abandonment When Office Actions Are Not Received*, 1156 O.G. 53

(Nov. 16, 1993). The showing must include: (1) a statement by the practitioner that the Office action was not received by the practitioner; (2) a statement attesting that a search of the file jacket and docket records indicates that the Office action was not received; and (3) a copy of the docket record where the non-received Office action would have been entered had it been received (the docket record must also be referenced in practitioner's statement).

Item (1) has not been satisfied. Practitioner states that the "Notice of Missing Parts" mailed 15 July 2003 was not received. The correspondence to which applicants failed to timely respond is a Notification of Missing Requirements (Form PCT/DO/EO/905). Practitioner must state that the 15 July 2003 Notification of Missing Requirements was not received.

Item (2) has not been satisfied. Applicants indicate that the Notice to File Missing Parts was not located in the file jacket or in the docket records, but the office action in question is a Notification of Missing Requirements.

As to (3), applicants must furnish the docket records of the firm for 15 September 2003, indicating where the nonreceived office action would have been docketed for response had it been received and docketed and reference the docket records in practitioner's statement. MPEP §711.03(c) para. II. The mail log is not sufficient.

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.181 is **DISMISSED** without prejudice.

The application remains **ABANDONED**.

If reconsideration on the merits of this petition is desired, a proper reply must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181."

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Erin M. Pender

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

#7

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

11 JAN 2006

Ackerman, Paul D.
Baker Botts
30 Rockefeller Plaza
New York NY 10112

In re Application of	:	
KAUFMAN, Arie E. et al.	:	
Application No.: 10/380,210	:	DECISION ON
PCT No.: PCT/US01/30942	:	
Int. Filing Date: 02 October 2001	:	PETITION
Priority Date: 02 October 2000	:	
Attorney Docket No.: A33572-PCT-H-USA	:	UNDER 37 CFR 1.137(b)
For: ENHANCED VIRTUAL NAVIGATION	:	
AND EXAMINATION	:	

This decision is in response to "Petition For Revival of an Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b)," filed in the United States Patent and Trademark Office on 06 September 2005.

BACKGROUND

On 02 October 2001, applicants filed international application PCT/US01/30942, claiming a priority date of 02 October 2000. The deadline for entry into the national stage in the United States was 02 April 2003.

On 12 March 2003, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 15 July 2003, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) was required.

On 28 July 2004, the Office mailed Notification of Abandonment (Form PCT/DO/EO/909) indicating the application went abandoned for failure to timely reply to the Notification of Missing Requirements mailed 15 July 2003.

On 03 December 2004, applicants submitted the petition under 37 CFR 1.181.

On 29 March 2005, the Office mailed Decision On Petition, dismissing applicants' petition and indicating that the application remained abandoned.

On 06 September 2005, applicants submitted the instant petition to revive.

DISCUSSION

A petition to revive an abandoned application under 37 CFR 1.137(b) must be filed without intentional delay from the time the application became abandoned and/or applicant first

became aware of the abandoned status of the application. A petition under 37 CFR 1.137(b) must be accompanied by (1) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, (2) the required reply, (3) the petition fee required by law (37 CFR 1.17(m)), and (4) a terminal disclaimer and fee (if the international application was filed prior to June 8, 1995). Pursuant to 37 CFR 1.137(b)(3), additional information may be required where there is a question whether the delay was unintentional.

Items (1), (3) and (4) have been satisfied.

Item (2) has not been satisfied. The required reply is a declaration in compliance with 37 CFR 1.497(a)-(b). The declaration must be executed by the inventors in the international application or as modified under PCT Rule 92*bis*. The international application lists the second inventor as "ZhenGrong Liang," but the declaration lists Inventor Liang's first name as "Zhenrong." The record does not reveal a correction made under Rule 92*bis*. If this is a typographical or transliteration error, it can be corrected by a statement from the applicant indicating which is the correct name. See MPEP 201.03.

CONCLUSION

For the above reasons, applicant's petition under 37 CFR 1.137(b) is **DISMISSED**, without prejudice.

The application remains **ABANDONED**.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)."

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

13 JUL 2006

#9

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

DORSEY & WHITNEY LLP
INTELLECTUAL PROPERTY DEPARTMENT
250 PARK AVENUE
NEW YORK, NY 10177

In re Application of	:	
KAUFMAN, Arie E. et al.	:	
Application No.: 10/380,210	:	DECISION ON
PCT No.: PCT/US01/30942	:	
Int. Filing Date: 02 October 2001	:	PETITION
Priority Date: 02 October 2000	:	
Attorney Docket No.: A33572-PCT-H-USA	:	UNDER 37 CFR 1.137(b)
For: ENHANCED VIRTUAL NAVIGATION	:	
AND EXAMINATION	:	

This decision is in response to "Renewed Petition Under 37 CFR 1.137(b)," filed in the United States Patent and Trademark Office on 11 April 2006.

BACKGROUND

On 11 January 2006, the Office mailed Decision On Petition Under 37 CFR 1.137(b) dismissing applicant's petition without prejudice.

On 20 January 2006, applicant filed a change of correspondence address.

On 11 April 2006, applicant filed the instant renewed petition.

DISCUSSION

A petition to revive an abandoned application under 37 CFR 1.137(b) must be filed without intentional delay from the time the application became abandoned and/or applicant first became aware of the abandoned status of the application. A petition under 37 CFR 1.137(b) must be accompanied by (1) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, (2) the required reply, (3) the petition fee required by law (37 CFR 1.17(m)), and (4) a terminal disclaimer and fee (if the international application was filed prior to June 8, 1995). Pursuant to 37 CFR 1.137(b)(3), additional information may be required where there is a question whether the delay was unintentional.

Items (1), (3) and (4) were previously satisfied.

Item (2) has now been satisfied. The international application listed the second inventor as "ZhenGrong Liang," but the declaration listed Inventor Liang's first name as "Zhenrong." Applicant has now supplied a statement that the discrepancy was a typographical error and

stating that the inventor's name is "Zhengrong Liang." See MPEP 201.03. The declaration complies with 37 CFR 1.497(a)-(b).

CONCLUSION

For the above reasons, applicant's petition under 37 CFR 1.137(b) is **GRANTED**.

The application has a date under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) of 06 September 2005. This application is being forwarded to the National Stage Processing Branch of PCT Operations for further action consistent with this decision, including processing of the correspondence address change.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

24 NOV 2003

#5

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

Mark F. Harrington
Harrington & Smith, LLP
4 Research Drive
Shelton, CT 06484-6212

In re Application of	DECISION ON
ROLSTON et al	
PCT No.: PCT/CA01/01269	
Application No.: 10/380,231	PETITION UNDER
Int. Filing Date: 10 September 2001	
Priority Date: 11 September 2000	
Attorney's Docket No.: 003D.0008.U1(US)	37 CFR 1.47(a)
For: MONOLITHIC SEMICONDUCTOR ...	
ALIGNMENT GROOVE	

This decision is in response to petitioner's "Statement of Facts to Support Petition Under 37 CFR 1.47(b)" submitted on 25 September 2003, which is being treated as a petition under 37 CFR 1.47(a) that seeks the acceptance of the application without the signature of the inventor Richard Benoit. Petitioner has submitted the requisite $130 petition fee by check.

BACKGROUND

On 10 September 2001, applicant filed international application PCT/CA01/01269, which claimed priority of an earlier application filed 11 September 2000. A copy of the international application was transmitted to the United States from the International Bureau on 14 March 2002. The thirty-month period for paying the basic national fee in the United States expired at midnight on 11 March 2003.

On 11 March 2003, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, inter alia, the requisite basic national fee as required by 35 U.S.C. 371(c)(1). However, no executed declaration or oath was submitted at such time.

On 04 August 2003, the United States Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 indicating, *inter alia*, that "the oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the international application number and international filing date. The notification set two (2) months from the date of this notice or 32 months from the priority date for the application, whichever is later. Failure to properly respond will result in abandonment."

In an attempt to satisfy the requirements of 35 U.S.C. 371(c)(4), petitioner, inter alia, filed on 25 September 2003, a petition under 37 CFR 1.47, the petition, a Declaration and Power for Patent Application executed by David Rolston and Thomas Maj on their behalf and on behalf on the nonsigning inventor, Richard Benoit.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor.

Furthermore, section 409.03(d) of the Manual of Patent Examining Procedure (M.P.E.P.) **Proof of Unavailability or Refusal**, the relevant sections states, in part:

INVENTOR CANNOT BE REACHED:

> Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under **37 CFR 1.47**, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made.
>
> The fact that a nonsigning inventor is on vacation or out of town and is therefore temporarily unavailable to sign the declaration is not an acceptable reason for filing under **37 CFR 1.47**.
>
> Furthermore, the fact that an inventor is hospitalized and/or is not conscious is not an acceptable reason for filing under **37 CFR 1.47**. **37 CFR 1.43** may be available under these circumstances. See **MPEP § 409.02**. Such a petition under **37 CFR 1.47** will be dismissed as inappropriate.
>
> The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as internet searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached should be made part of the statement. The steps taken to locate the whereabouts of the nonsigning inventor should be included statement of facts. It is important that the statement contain facts as opposed to conclusions.

Petitioner has satisfied requirements (1), (3), and (4) of 37 CFR 1.47(a). However, requirement (2) has not been satisfied.

In this case, it has not been sufficiently demonstrated that a copy of the application papers were presented to the nonsigning inventor. Mr. Harrington asserts that a letter and documents were sent to the nonsigning inventor at his last known address on March 05, 2003. The documents forwarded to Mr. Benoit as indicated in the letter did not include a copy of the application papers (specification, including claims, drawings, and oath or declaration) as required under MPEP. 409.03(d).

Moreover, it is not clear from the petition that it was Mr. Harrington who performed the items listed in page 2, section 2 of the petition, and has first hand knowledge of those facts as required by MPEP Section 409.03(d). If Mr. Harrington was not the person who performed the actions listed in that section, petitioner will need to submit statements, with specific facts on the actions referred to by page 2, section 2 by persons who have first-hand knowledge of such facts.

Consequently, at this time it can not be concluded that the nonsigning Mr. Benoit could not be reached after diligent effort as stipulated under 37 CFR 1.47(a).

CONCLUSION

The petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Tel: (703) 308-6312
Fax: (703) 308-6459

Boris Milef
PCT Legal Examiner
PCT Legal Office

25 MAR 2004

#7

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

Mark F. Harrington
Harrington & Smith, LLP
4 Research Drive
Shelton, CT 06484-6212

In re Application of	:	DECISION ON
ROLSTON et al	:	
PCT No.: PCT/CA01/01269	:	
Application No.: 10/380,231	:	PETITION UNDER
Int. Filing Date: 10 September 2001	:	
Priority Date: 11 September 2000	:	
Attorney's Docket No.: 003D.0008.U1(US)	:	37 CFR 1.47(a)
For: MONOLITHIC SEMICONDUCTOR ...	:	
ALIGNMENT GROOVE	:	

This decision is in response to applicant's " RENEWED PETITION UNDER 37 CFR 1.47(a)" filed on 12 December 2003 in response to a decision by this Office dated 24 November 2003.

BACKGROUND

The decision by this Office dated 24 November 2003 indicated that the record did not support the premise that the documents forwarded to Mr. Benoit as indicated in the letter included a copy of the application papers (specification, including claims, drawings, and oath or declaration) as required under MPEP. 409.03(d). Moreover, it was not clear from the petition that it was Mr. Harrington who performed the items listed in page 2, section 2 of the petition, and had first hand knowledge of those facts as required by MPEP Section 409.03(d).

On 12 December 2003, petitioner filed this renewed petition accompanied by, inter alia, an executed declaration by Mr. Richard Benoit the remaining nonsigning inventor.

DISCUSSION

The petition states an executed declaration by inventor Richard Benoit is provided, and all the requirements have been met.

The declaration is now signed by all the inventors. Accordingly, the declaration submitted on 12 December 2003 complies with 37 CFR 1.497(a) and (b).

DECISION

The petition under 37 CFR 1.47(a) is **MOOT.**

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing consistent with this decision. The 35 USC 371 date of this application is **12 December 2003**.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office

Boris Milef
PCT Legal Examiner
PCT Legal Office

Telephone: (703) 308-6312
Facsimile: (703) 308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.go

WEBB ZIESENHEIM LOGSDON ORKIN & HANSON, P.C.
700 KOPPERS BUILDING
436 SEVENTH AVENUE
PITTSBURGH, PA 15219

COPY MAILED

JAN 0 6 2005

OFFICE OF PETITIONS

In re Application of	:	
Eissler, Elgin E.	:	
Application No. 10/380,232	:	ON PETITION
Filed: March 11, 2003	:	
Attorney Docket No. 4386-030084	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3282.

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
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

KLARQUIST SPARKMAN, LLP
121 SW SALMON STREET
SUITE 1600
PORTLAND, OR 97204

Mail Date: 04/21/2010

Applicant	: Leo P. Vernon	: DECISION ON REQUEST FOR
Patent Number	: 7572436	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/380,237	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/10/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1622** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SEP - 7 2004

#8

MERCK & CO., INC.
P. O. BOX 2000
RAHWAY, NJ 07065-0900

In re Application of	:
Byron H. Arison et al	:
Serial No.: 10/380,245	: PETITION DECISION
Filed: March 11, 2003	:
Attorney Docket No.: 20707P	:

This is in response to the petition under 37 CFR 1.181, filed May 19, 2004, requesting withdrawal of abandonment based on timely filing of a reply.

A review of the file history shows that the examiner mailed an Office action to applicants on September 10, 2003, setting a one month shortened statutory period for reply. On April 21, 2004, the Office mailed a Notice of Abandonment to applicants for failure to file a reply to the Office action. Applicants state that a reply was filed on October 1, 2003, and provide a copy thereof with a properly executed Certificate of Mailing. The original reply has not been located and the copy provided with the petition will be utilized in lieu thereof. In view of the timely reply, the Notice of Abandonment was mailed in error and is withdrawn and the application restored to pending status with the mailing of this decision.

The petition is **GRANTED**.

The application will be forwarded to the examiner for further action.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number

Bruce M. Kisliuk
Director, Technology Center 1600

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

COPY MAILED
DEC 0 4 2006
OFFICE OF PETITIONS

BERTRAM V. BURKE
1434 SW 51ST LANE
CAPE CORAL FL 33914

In re Application of	:	
BURKE	:	
Application No. 10/380,247	:	DECISION ON PETITION
Filed: December 15, 2003	:	TO MAKE SPECIAL UNDER
Attorney Docket No. EPC-192N	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed November 13, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age, must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required.

The evidence submitted with the instant petition is a declaration signed by Mr. Burke indicating that he is at least 65 years of age. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Patricia Volpe at 571-272-6825.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 3692 for action on the merits commensurate with this decision.

P Volpe

Patricia Volpe
Petitions Examiner
Office of Petitions

24 MAR 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Susan E. Shaw McBee
Connolly Bove Lodge & Hutz LLP
1990 M Street NW, Suite 800
Washington, DC 20036-3425

In re Application of	:	
SPITZER-KELLER, Valerie	:	
Application No.: 10/380,290	:	DECISION ON
PCT No.: PCT/FR02/03697	:	
Int. Filing Date: 28 October 2002	:	PETITION
Priority Date: 29 October 2001	:	
Attorney Docket No.: 22156-003-US	:	UNDER 37 CFR 1.181
For: PHOTOCATALYST AND A METHOD	:	
OF PURIFYING GASEOUS EFFLUENTS	:	

This decision is in response to "Petition to Withdraw Holding of Abandonment Based On Unintentional Delay Under 37 CFR §1.137(b)," filed with the United States Patent and Trademark Office on 17 March 2005. It has been treated as a petition under 37 CFR 1.181. A petition fee is not required.

BACKGROUND

On 28 October 2002, applicant filed international application PCT/FR02/03697, claiming a priority date of 29 October 2001. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 08 May 2003. The deadline for entry into the national stage in the United States was 29 April 2003.

On 12 March 2003, applicant filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 15 July 2003, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) was required.

On 17 March 2005, applicant submitted the instant petition accompanied by a declaration and docket records.

DISCUSSION

The showing required to establish nonreceipt of an Office communication is set forth in the notice entitled *Withdrawing the Holding of Abandonment When Office Actions Are Not Received*, 1156 O.G. 53 (Nov. 16, 1993). The showing must include: (1) a statement by the practitioner that the Office action was not received by the practitioner; (2) a statement attesting that a search of the file jacket and docket records indicates that the Office action was not received; and (3) a copy of the docket record where the non-

received Office action would have been entered had it been received (the docket record must also be referenced in practitioner's statement).

Items (1), (2) and (3) have been satisfied. Practitioner states that the Notification of Missing Requirements was not received. Practitioner states that a search of the file jacket and docket records indicates that the Notification was not received. Practitioner has furnished a copy of the docket records where the Notification would have been entered had it been received and has referenced the docket record in practitioner's statement.

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.181 is **GRANTED**.

The Notification of Missing Requirements (Form PCT/DO/EO/905) mailed 15 July 2003 is **VACATED**.

This application is being forwarded to the National Stage Processing Division of the Office of the PCT Operations for continued processing. The date under 35 U.S.C. §371(c)(1), (c)(2) and (c)(4) is 17 March 2005.

Erin M. Pender

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

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

NOV 13 2003

VP
PAPER NO. ___

In re Application of	:	
Craig A. Lesser et al.	:	DECISION ON
Serial No. 10/380,294	:	PETITION UNDER
Filed: March 10, 2003	:	M.P.E.P. 708.02 VIII
For: TOBACCO SMOKE FILTER	:	

This is in response to the petition filed July 31, 2003, requesting that the above-identified application be granted Special Status under Section 37 CFR 102(c) and 708.02 VIII 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 sections. Accordingly, the petition is **GRANTED.**

Marian C Knode

Marian C. Knode, Special Programs Examiner
Technology Center 1700
Chemical and Materials Engineering

SHELDON & MAK PC
225 South Lake Avenue, 9th Floor
Pasadena, CA 91101

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER
OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

Date: 9/25/03

To: SPE, Art Unit 1731

From: Director's Office, 8D19

Subject: Petition for accelerated examination

A petition for accelerated examination, pursuant to MPEP 708.02 (VIII), has been filed in this application.

In order to respond to this request as promptly as possible, please complete the questions below and return to the Director's Office - CP3-8D19 by COB 9/30.

	Yes	No
1. **Are all the claims directed to a single invention (no restriction required)?**	[✓]	[ ]
a. If "no", has the petitioner made an election in the petition?	[ ]	[ ]
b. If "no", has a restriction requirement been made by examiner?	[ ]	[ ]
If "no" to (b), give to examiner for telephone restriction only		
c. If "yes" to (b), was election made without traverse?	[ ]	[ ]
If "no" to (c), return to secretary for "DENIAL" of petition.		
2. **Is the field of search listed in the petition correct:**		
a. Classes and subclasses?	[ ]	[✓]
If "no", please list all reasonable, additional classes/subclasses 131/331, 332, 334, 335, 88, 94, 360, 361; 493/39, 50 8/543; 162/164.6, 158, 162, 164.1, 139		
b. **Publications? (If applicable)**	[✓]	[ ]
If "no", please list all reasonable publications		
c. **Foreign patent IPC classes/subclass? (If applicable)**	[ ]	[✓]
If "no", please list all reasonable, additional IPC classes/subclasses A24B 15/00, 15/28, 15/10, 15/30; C09B 62/00		
d. **Database searches, e.g., Chemical Abstract? (If applicable)**	[✓]	[ ]
If "no", please list all reasonable, additional databases		
3. **Has a search been performed by a foreign patent office, e.g., is an EPO, JPO, or WIPO document present in the application file or supplied by applicant, and is the document for an equivalent foreign application?**	[✓]	[ ]
a. If "yes", does the document list an IPC type search?	[✓]	[ ]
b. If "yes" to (a), are the IPC classes/subclasses reasonable?(Optional)	[✓]	[ ]

PLEASE RETURN THIS SHEET AND THE APPLICATION TO THE DIRECTOR'S SECRETARY UPON COMPLETION.

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.
10192005

Lawrence E. Ashery
P.O. Box 980
Valley Forge, PA 19482

In re Application of:	:	
DGUDIN.	:	DECISION ON
Serial No.: 10/380,313	:	PETITION
Filed: June 3, 2003	:	UNDER 37 CFR 1.181
Attorney Docket No.: **ITC-319US**	:	

This is in response to the "Petition Under 37 C.F.R. 1.181 In Response to Cancellation of Claims" received on July 20, 2005.

The Petition has been **granted**.

Telephone inquires should be directed to Nestor R. Ramirez at (571) 272-2034.

The above-identified application is being forwarded to the examiner for appropriate action.

Nestor R. Ramirez, Supervisory Patent Examiner
Technology Center 2800
Physics, Optics, Systems Components,
And Electrical Engineering

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

Vierra Magen Marcus & DeNiro LLP
575 Market Street, Suite 2500
San Francisco, CA 94105

Mail Date: 04/21/2010

Applicant	: Arrigo G.B. Triulzi	: DECISION ON REQUEST FOR
Patent Number	: 7594009	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/380,315	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/12/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1242** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C
ONE FINANCIAL CENTER
BOSTON, MA 02111

Mail Date: 06/16/2010

Applicant	: Tommi Koistinen	: DECISION ON REQUEST FOR
Patent Number	: 7636355	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/380,331	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/19/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **944** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov
DNW Sep-06

PILLSBURY WINTHROP SHAW PITTMAN, LLP
P.O. BOX 10500
MCLEAN VA 22102

COPY MAILED
SEP 15 2006
OFFICE OF PETITIONS

In re Application of	:	
Peter Koreska	:	LETTER DISMISSING PETITION
Application No. 10/380,333	:	
Filed: 13 March, 2003	:	
Atty Docket No. P 0302339	:	

This is a communication in response to the paper styled as a petition, filed on 1 June, 2006, under 37 CFR 1.137(b)[1] to revive the above-identified application.

The petition is dismissed for the reason stated below.

The petition is unsigned.[2] 37 CFR 1.4 requires that all papers filed in the USPTO must be signed by either a registered patent attorney or the inventor(s).

Applicant should file a properly signed petition. No additional petition fee is necessary.

---

[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 require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

[2] While the certificate of mailing or transmission on the petition has been signed by petitioner's counsel, the petition itself is not signed.

A reply to this communication should be submitted within two (2) weeks of receipt of this communication.

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.

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
DIW Nov-06

PILLSBURY WINTHROP SHAW PITTMAN, LLP
P.O. BOX 10500
MCLEAN VA 22102

COPY MAILED
NOV 24 2006
OFFICE OF PETITIONS

In re Application of :
Peter Koreska :
Application No. 10/380,333 : DECISION ON PETITION
Filed: 13 March, 2003 :
Atty Docket No. P 0302339 :

This is a decision on the petition under 37 CFR 1.137(b),[1] filed on 19 September, 2006.

The petition is **GRANTED**.

The application became abandoned on 20 January, 2006, for failure to timely file a reply to the final Office action mailed on 19 October, 2005, which set a three (3) month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. An amendment after final rejection was filed on 19 January, 2006, but was found not to place the application in condition for allowance. An Advisory Action was mailed on 21 March, 2006. On 18 May, 2006, Notice of Abandonment was mailed.

---

[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 require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

An unsigned petition and the petition fee were submitted on 1 June, 2006, along with a Notice of Appeal and fee. A letter was mailed on 15 September, 2006, stating the petition could not be accepted because it was unsigned. The present petition was filed in response on 19 September, 2006.

The Notice of Appeal filed 1 June, 2006, has been entered and made of record. Accordingly, the two (2)-month period for filing the Appeal Brief, in triplicate, accompanied by the fee required by law, runs from the date of this decision.

The duplicate Notice of Appeal and petition fees submitted on 19 September, 2006, will be credited to counsel's deposit account.

The application is being referred to Technology Center 3751 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

#3

17 JUL 2003

J. Mitchell Jones
Medlen & Carroll, LLP
101 Howard Street, Suite 350
San Francisco, CA 94105

In re Application of	:	
SUTOVSKY	:	
Application No.: 10/380,357	:	DECISION ON PETITION
PCT No.: PCT/US00/33373	:	UNDER 37 CFR 1.137(b)
Int. Filing Date: 08 December 2000	:	
Priority Date: 10 December 1999	:	
Attorney Docket No.: OREGON-07878	:	
For: SPERM QUALITY ASSAY	:	

The petition to revive under 37 CFR 1.137(b) filed 13 March 2003 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 C.F.R. 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that the applicants have submitted payment of the basic national fee and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National Stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office (US/DO/EO) for continued processing including the issuance of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an executed oath or declaration of the inventor and payment of the applicable surcharge is required.

Derek A. Putonen
Attorney-Advisor
Office of PCT Legal Administration
Telephone: (703) 305-0130
Facsimile: (703) 308-6459

Serial No. 10/380357 **Date :** 7/16/03

17 JUL 2003

Request : [✓] Petition To Revive Unintentionally Abn. Appl. [ ] Petition under Rule 1.47

[ ] Other :

Requestor : John Anderson **Supervisor :** C. Short

Response : PETITION GRANTED. PLEASE PREPARE & MAIL 905 REGARDING NEED TO FILE OATH/DEC AND PAY SURCHARGE.

By : DEREK POSTON **Date :** 7/17/03

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

ROBERT D. SHEDD
Patent Operations
Thomson Licensing LLC
P.O. Box 5312
Princeton, NJ 08543-5312

Mail Date: 04/21/2010

Applicant	: Dirk Adolph	: DECISION ON REQUEST FOR
Patent Number	: 7634174	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/380,372	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/14/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **2041** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BAYER CROPSCIENCE LP
PATENT DEPARTMENT
2 TW ALEXANDER DRIVE
RESEARCH TRIANGLE PARK NC 27709

COPY MAILED

APR 24 2008

OFFICE OF PETITIONS

In re Application of	:	
Plant, et al.	:	DECISION ON PETITION
Application No. 10/380,433	:	
Filed: July 28, 2003	:	
Attorney Docket No. CS7707/LeA 34,684	:	

This is a decision on the "PETITION TO WITHDRAW TERMINAL DISCLAIMER UNDER 37 CFR 1.182", filed December 6, 2007.

The petition under 37 CFR 1.182 is **DISMISSED**.

Applicants filed a terminal disclaimer on August 9, 2006, to overcome rejections of claims based on US Patent Nos. 6,274,613; 6,399,771; 6,632,833; and 6,489,490; and US Application Nos. 10/474,106 and 10/433,443. Applicant has requested that the terminal disclaimer be withdrawn, stating that the current pending claims were not subject to such rejections.

The Examiner has indicated that the pending claims were not rejected over Patent Nos. 6,274,613; 6,399,771; 6,632,833; and 6,489,490 and Application No. 10/474,106. Accordingly, withdrawal of the terminal disclaimer with respect to these patents and application would be proper. However, the Examiner has indicated that Application No. 10/433,443 has issued into Patent No. 7,179,806, and that the provisional rejection was applied to claim 32, which is currently pending.

Accordingly, the petition to withdraw the terminal disclaimer filed August 9, 2006 must be dismissed.

The $400 petition fee has been charged to Deposit Account No. 50-2510, as authorized.

The matter is being sent to Group Art Unit 1626 for consideration of the Amendment filed December 6, 2007.

Telephone inquiries concerning this decision may be directed to Cliff Congo at (571)272-3207.

Anthony Knight
Supervisor
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

BAYER CROPSCIENCE LP
PATENT DEPARTMENT
2 TW ALEXANDER DRIVE
RESEARCH TRIANGLE PARK NC 27709

COPY MAILED

JUN 17 2008

OFFICE OF PETITIONS

In re Application of	:	
Plant, et al.	:	DECISION ON PETITION
Application No. 10/380,433	:	
Filed: July 28, 2003	:	
Attorney Docket No. CS7707/LeA 34,684	:	

This is a decision on the renewed petition under 37 CFR 1.182, filed May 30, 2008, to withdraw a terminal disclaimer.

The petition under 37 CFR 1.182 is **GRANTED**.

Applicants filed a terminal disclaimer on August 9, 2006, to overcome rejections of claims based on US Patent Nos. 6,274,613; 6,399,771; 6,632,833; and 6,489,490; and US Application Nos. 10/474,106 and 10/433,443.

The matter is being forwarded to Group Art Unit 1626. The examiner is directed to withdraw the terminal disclaimer over US US Patent Nos. 6,274,613; 6,399,771; 6,632,833; and 6,489,490; and US Application Nos. 10/474,106 and 10/433,443.

Telephone inquiries concerning this decision may be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

15 JUL 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

#3

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Carl D. Corvin
DOW AGROSCIENCES LLC
Patent Department
9330 Zionsville Road
Indianapolis, IN 46268

In re Application of KELLY, Martha *et al* U.S. Application No.: 10/380,435 PCT No.: PCT/US01/50363 Int. Filing Date: 26 October 2001 Priority Date: 27 October 2000 Attorney Docket No.: RHA01070 For: SUBSTITUTED 4,5-DIHYDRO-1,2,4-TRIAZIN-6-ONES, . . .	**DECISION ON PETITION UNDER 37 CFR 1.47(a)**

This is a decision on applicants' "Petition Under 37 C.F.R. § 1.47(a)" ("Pet.") filed on 12 June 2003.

BACKGROUND

On 14 March 2003, applicants filed a transmittal letter for entry into the national stage in the United States under 35 U.S.C. 371 which was accompanied by, *inter alia*, authorization to charge the basic fee to Deposit Account No. 04-1529.

On 12 June 2003, applicants submitted the instant petition which was accompanied by, *inter alia*, a declaration signed by two of the four co-inventors; a copy of a certified mail receipt; and a copy of an e-mail message and delivery status notification.

On 30 June 2003, applicants filed a declaration signed by one of the four co-inventors.

DISCUSSION

In the instant petition, the 37 CFR 1.47(a) applicant claims that Mr. James Joseph Gallagher either refuses to sign or cannot be located. A petition under 37 CFR 1.47(a) must be accompanied by: (1) the required petition fee; (2) factual proof that the missing joint inventor refuses to execute the application or cannot be located; (3) a statement of the last known address of the missing joint inventor; (4) and an oath or declaration executed by the signing joint inventor on his behalf and on behalf of the non-signing joint inventor.

Concerning item (1), the $130.00 petition fee has been charged to Deposit Account No. 04-1529 as authorized.

With regard to item (3), the 37 CFR 1.47(b) applicants state that the last known address of the nonsigning co-inventor, Mr. James Joseph Gallagher is:

530 Meadowbrook Avenue
Ambler, PA 19002

This information satisfies item (3).

Concerning item (2), the 37 CFR 1.47(a) applicant claims that Mr. Gallagher was sent a certified letter to his last known address which was returned after two tries of delivery by the USPS. The 37 CFR 1.47(a) applicant also attempted to contact Mr. Gallagher at his last known e-mail address. The petitioner claims that Mr. Gallagher did not respond to this e-mail. A copy of the certified mail receipt and e-mail message was included in the petition.

From the facts noted in the petition, this is treated as if the nonsigning co-inventor cannot be reached. There is no evidence presented that Mr. Gallagher refuses to join in the application, or has received any of the correspondence.

Applicants' burden in proving that an inventor cannot be located is explained in section 409.03(d) of the Manual of Patent Examining Procedure (MPEP) which states, in part:

> Where inability to find or reach a nonsigning inventor 'after diligent effort' is the reason for filing under 37 CFR 1.47, an affidavit or declaration of the facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made. . . .
>
> The affidavit or declaration of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as certified mail return receipt, cover letter of instructions, telegrams, etc., that support a finding that the nonsigning inventor could not be found or reached should be made part of the affidavit or declaration. It is important that the affidavit or declaration contain statements of fact as opposed to conclusions.

Here, the 37 CFR 1.47(a) has not met the requirements of proving a diligent effort was made to contact the nonsigning co-inventor. There is no evidence that applicants attempted to contact Mr. Gallagher by telephone, or even do a search for him using the internet. These efforts are not extraordinary and should be attempted to demonstrate that a diligent effort was made. Absent such a showing, item (2) is not

satisfied. Copies of any searches and any other documentary evidence should be included in a renewed petition.

Regarding item (4), applicants included a Declaration signed by two of the four co-inventors. The name and citizenship of each co-inventor is recorded on the declaration. However, the residence and post office address of Mr. Gallagher is not listed on the declaration. Thus, the declaration is not in compliance with 37 CFR 1.497(b)(2).

For this reason, item (4) is not yet satisfied.

Applicants failed to meet items (2) and (4), thus, it is not appropriate to accept this application under 37 CFR 1.47(a) at this time.

CONCLUSION

The petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required.

The 37 CFR 1.47(a) applicant is advised that the correspondence address has changed. Any further correspondence with respect to this matter deposited with the United States Postal Service should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (703) 308-6457

UNITED STATES PATENT AND TRADEMARK OFFICE

0 8 SEP 2003

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Carl D. Corvin
DOW AGROSCIENCES LLC
Patent Department
9330 Zionsville Road
Indianapolis, IN 46268

In re Application of KELLY, Martha *et al* U.S. Application No.: 10/380,435 PCT No.: PCT/US01/50363 Int. Filing Date: 26 October 2001 Priority Date: 27 October 2000 Attorney Docket No.: RHA01070 For: SUBSTITUTED 4,5-DIHYDRO-1,2,4-TRIAZIN-6-ONES, . . .	**DECISION ON RENEWED PETITION UNDER 37 CFR 1.47(a)**

This is a decision on applicants' "Reconsideration of Petition under 37 C.F.R. §1.47(a)" ("Ren.Pet.") filed on 15 August 2003.

BACKGROUND

On 15 July 2003, a decision dismissing applicants' petition under 37 CFR 1.47(a) was mailed. Applicants failed to satisfy items (2) and (4) of 37 CFR 1.47(a). Applicants were given two months to respond with extensions of time available.

On 17 July 2003, applicants filed the instant renewed petition which was accompanied by, *inter alia*, a declaration executed by three of the four joint inventors and copies of various internet searches attempting to contact the missing co-inventor, Mr. James Gallagher.

DISCUSSION

The 37 CFR 1.47(a) applicant failed to satisfy items (2) and (4) of 37 CFR 1.47(a) with the papers filed 12 June 2003.

Concerning item (2), the 37 CFR 1.47(a) applicant to show that a diligent effort was made to locate the nonsigning co-inventor. The petitioner was requested to attempt to locate Mr. Gallagher via the internet.

In the renewed petition, the 37 CFR 1.47(a) applicant states that "DAS tried to locate Mr. Gallagher via the internet. The search was only conducted in the State of Pennsylvania and over 200 entries were available. In order to search the entire United States, it would need to be done individually. There were eight J. Gallaghers and three J.J. Gallaghers listed in Pennsylvania, none of which turned out to be the correct James Joseph Gallagher." Ren.Pet. at ¶ 6.

The petitioner included copies of the internet searches for Mr. Gallagher with the renewed petition as requested. This evidence in conjunction with the evidence previously submitted using the postal service and e-mail is sufficient to show that a diligent effort was made to locate Mr. Gallagher and meets the requirements of section 409.03(d) of the MPEP. Thus, item (2) of 37 CFR 1.47(a) is now satisfied.

Regarding item (4), applicants included a new declaration signed by three of the four co-inventors; *i.e.*, Martha Jean Kelly, Karen Anderson Evans and Mark Joseph Mulvihill. All the inventors' names, residences, post office addresses, and citizenship are typed on this declaration, including the nonsigning co-inventor, Mr. James Joseph Gallagher, whose residence and post office address was missing on the original declarations filed 12 June 2003 and 30 June 2003.

However, a review of the declaration submitted with the renewed petition reveals that Mr. Gallagher's address is incorrectly listed as 230 Meadowbrook Avenue, Ambler, PA 19002 on the new declaration. The last known address was recorded as 530 Meadowbrook Avenue, Ambler PA 19002 in the initial petition. Moreover, the copy of the certified letter submitted by the 37 CFR 1.47(a) as proof that a diligent effort was made to locate Mr. Gallagher was also sent to 530 Meadowbrook Avenue, Ambler PA 19002.

The 37 CFR 1.47(a) should verify that the last known address of Mr. Gallagher was 530 Meadowbrook Avenue. Otherwise, item (2) will be rescinded. Assuming the 530 street address is correct, item (4) of 37 CFR 1.47(a) is still not satisfied.

CONCLUSION

Accordingly, applicants' renewed petition is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision.

Any further correspondence with respect to this matter deposited with the United States Postal Service should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (703) 308-6457

06 APR 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Mr. James Joseph Gallagher
530 Meadowbrook Avenue
Ambler, PA 19002

In re Application of
KELLY, Martha *et al*
U.S. Application No.: 10/380,435
PCT No.: PCT/US01/50363
Int. Filing Date: 26 October 2001
Priority Date: 27 October 2000
Attorney Docket No.: RHA01070
For: SUBSTITUTED 4,5-DIHYDRO-1,2,4-TRIAZIN-6-ONES, . . .

Dear Mr. Gallagher:

You are named as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. § 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (703) 308-6457

Carl D. Corvin
DOW AGROSCIENCES LLC
Patent Department
9330 Zionsville Road
Indianapolis, IN 46268

06 APR 2004

#7

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Carl D. Corvin
DOW AGROSCIENCES LLC
Patent Department
9330 Zionsville Road
Indianapolis, IN 46268

In re Application of KELLY, Martha *et al* U.S. Application No.: 10/380,435 PCT No.: PCT/US01/50363 Int. Filing Date: 26 October 2001 Priority Date: 27 October 2000 Attorney Docket No.: RHA01070 For: SUBSTITUTED 4,5-DIHYDRO-1,2,4-TRIAZIN-6-ONES, . . .	**DECISION ON SECOND RENEWED PETITION UNDER 37 CFR 1.47(a)**

This is a decision on applicants' "Reconsideration of Petition under 37 C.F.R. §1.47(a)" filed on 24 October 2003.

BACKGROUND

On 08 September 2003, a decision dismissing applicants' petition under 37 CFR 1.47(a) was mailed. Applicants failed to satisfy item (4) of 37 CFR 1.47(a). Applicants were given two months to respond with extensions of time available.

On 24 October 2003, applicants filed the instant renewed petition which was accompanied by, *inter alia*, a declaration executed by three of the four joint inventors.

DISCUSSION

The 37 CFR 1.47(a) applicant failed to satisfy item (4) of 37 CFR 1.47(a) with the renewed petition filed 17 July 2003. The declaration submitted recorded the address of Mr. Gallagher's as 230 Meadowbrook Avenue, Ambler, PA 19002, while the last known address was recorded as 530 Meadowbrook Avenue, Ambler PA 19002 in the initial petition. The 37 CFR 1.47(a) applicant was requested to clarify this discrepancy.

In the second renewed petition, the 37 CFR 1.47(a) applicant has provided a new declaration for the above-captioned application signed by three of the four inventors. On this declaration the nonsigning joint inventor, James Joseph Gallagher, is also listed. The residence of Mr. Gallagher is listed as 530 Meadowbrook Avenue, Ambler, PA 19002 which is the same address as listed as his last known address in the initial petition. This declaration meets the requirements of section 409.03(a) of the MPEP and is also in compliance with 37 CFR 1.497(a) & (b).

For this reason, item (4) of 37 CFR 1.47(a) is now satisfied.

All the requirements of 37 CFR 1.47(a) are now complete.

CONCLUSION

Applicants' second renewed petition under 37 CFR 1.47(a) is **GRANTED**.

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 26 October 2001 under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 24 October 2003.

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the non-signing inventor at his last known address of record and will be published in the Official Gazette.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (703) 308-6457

12 NOV 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

Sarah B. Adriano
Mandel & Adriano
55 S. Lake Avenue, Suite 710
Pasadena, CA 91101

In re Application of
BEAVO, et al.
Application No.: 10/380,437
PCT No.: PCT/US01/28503
Int. Filing Date: 12 September 2001
Priority Date: 12 September 2000
Attorney Docket No.: 30429.3USWO
For: NOVEL PDES AND USES THEREOF

DECISION ON PETITION

UNDER 37 CFR 1.181

This decision is in response to applicant's "Communication Requesting Withdrawal of Erroneously Issued Notice of Abandonment" filed 30 August 2004 in the United States Patent and Trademark Office (USPTO). The communication is being treated as a petition under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 12 September 2001, applicant filed international application PCT/US01/28503, which claimed priority of an earlier application filed 12 September 2000. The deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 12 March 2003.

On 12 March 2003, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); an executed declaration of the inventors; a preliminary amendment and a sequence listing and computer readable form of same.

On 20 November 2003, applicant was mailed a "Notification to Comply With Requirements For Patent Applications Containing Nucleotide And/Or Amino Acid Sequence Disclosures (Form PCT/DO/EO/922) informing applicant of the need to provide a copy of the sequence listing in computer readable form. Applicant was given two months to respond and advised that this time period could be extended with a proper petition and payment of fees.

On 04 August 2004, applicant was mailed a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) informing applicant that applicant had failed to respond to the Form PCT/DO/EO/922 mailed 20 November 2003 within the time period set therein and that above-identified application was abandoned as to the United States.

On 30 August 2004, applicant filed the present petition under 37 CFR 1.181 requesting withdrawal of the abandonment.

DISCUSSION

The best evidence of what was actually received by the Office is a postcard receipt containing a specific itemization of all the items being submitted. See MPEP 503. Here, applicant has provided a copy of the date-stamped postcard receipt for the initial 12 March 2003 filing. The postcard identifies the application by applicants, title and docket number. The receipt identifies the application number as "10/380,437." Among the items listed on the receipt is "Exhibit C - Copy of Preliminary Amendment, Computer readable form and paper copy of the Sequence Listing and Declaration Pursuant to WIPO Standard ST.25 (68 pages)." The receipt is stamped "DT20 Rec'd PCT/PTO 12 MAR 2003" across its face. The postcard has not been annotated in any way to indicate that any of the listed items were not received by the USPTO. Thus, it is clear that applicant filed a CRF and paper copy of the sequence listing on 12 March 2003. For the reasons stated above, it is proper to grant applicant's petition at this time and accept the copy of the CRF filed 30 August 2004 as a substitute for the CRF originally filed 12 March 2003. Applicant has avowed that the copy is a true and complete copy of the original. It is noted that a review of USPTO records finds that the CRF is compliant and was entered on 08 September 2004.

Further, a review of the application file reveals that all of the requirements of 35 U.S.C. 371 for entry into the national stage in the United States were satisfied on 12 March 2003.

CONCLUSION

Applicant's petition under 37 CFR 1.181 is **GRANTED**.

The Notification of Abandonment mailed 24 November 2003 is hereby **VACATED**.

This application will be given an international application filing date of 12 September 2001 and a date of **12 March 2003** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

This application is being returned to the DO/EO/US for processing in accordance with this decision.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459

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

SPECKMAN LAW GROUP PLLC
1201 THIRD AVENUE, SUITE 330
SEATTLE, WA 98101

Mail Date: 04/21/2010

Applicant	: Markus Tellenbach	: DECISION ON REQUEST FOR
Patent Number	: 7602994	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/380,455	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/25/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1844** 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.

#6

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

27 JAN 2006

MCKEE, VOORHEES & SEASE, P.L.C.
801 GRAND AVENUE
SUITE 3200
DES MOINES, IA 50309-2721

In re Application of WATTS	:	
U.S. Application No.: 10/380,458	:	
PCT Application No.: PCT/AU01/01129	:	DECISION
Int. Filing Date: 07 September 2001	:	
Priority Date Claimed: 12 September 2000	:	
Attorney Docket No.: P06127US0	:	
For: DISPENSING MACHINE AND METHOD	:	

This is in response to applicant's "Petition for Withdrawal of Abandonment" filed 01 August 2005, which is being treated under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 07 September 2001, applicant filed international application PCT/AU01/01129, which claimed priority of an earlier Australia application filed 12 September 2000. A copy of the international application was communicated to the USPTO from the International Bureau on 21 March 2002. The thirty-month period for paying the basic national fee in the United States expired on 12 March 2003.

On 12 March 2003, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 11 July 2003, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 06 August 2003, applicant purportedly filed an executed declaration.

On 22 June 2005, the USPTO mailed a Notice of Abandonment.

On 01 August 2005, applicant filed the present petition under 37 CFR 1.181.

DISCUSSION

The petition states that an execute declaration was filed via facsimile on 06 August 2003. The petition includes a copy of a USPTO-generated auto-reply facsimile transmission which sufficiently demonstrates that the declaration was filed on the date alleged.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.181 is GRANTED.

The Notice of Abandonment mailed 22 June 2005 is hereby VACATED.

The application has an International Filing Date under 35 U.S.C. 363 of 07 September 2001, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 06 August 2003.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 571-273-0459

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

WINSTON & STRAWN LLP
1700 K STREET, N.W.
WASHINGTON DC 20006

COPY MAILED

JUN 21 2005

OFFICE OF PETITIONS

Applicant: Rautenstrauch et al.
Appl. No.: 10/380,483
International Filing Date: September 11, 2001
Title: CATALYTIC HYDROGENATION PROCESSES
Attorney Docket No.: 81455-5370
Pub. No.: US 2004/00063966 A1
Pub. Date: April 1, 2004

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), filed on May 26, 2004, for the above-identified application.

The request is granted-in-part.

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records . . . Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.[1]

The patent application publication will not include corrections for errors not made by the Office. On September 3, 2003, applicant filed four different declarations, each giving a different listing for the order of inventors. The order of names is taken from the order in which the several oaths or declarations appear in the application papers unless a different order is requested at the time of filing. The patent application publication listed the inventors in the order presented on the declarations. Since the particular order in which the names appear is of no consequence insofar as the legal rights of the joint applicants are concerned, no changes will be made except when a petition under 37 CFR 1.182 is granted. The petition should be directed to the attention of the

[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).

Office of Petitions. The petition to change the order of names must be signed by either the attorney or agent of record or all the applicants. Applicants are strongly encouraged to submit an application data sheet showing the new order of inventor names to ensure appropriate printing of the inventor names in any patent to issue. It is suggested that all typewritten and signed names appearing in the application papers should be in the same order as the typewritten names in the oath or declaration.

It has been noted that the declarations submitted by applicant are improper, as they have not been properly signed by all of the inventors. Applicant has submitted four different declarations, but only one of the four declarations listed all of the inventors. While each inventor need not execute the same oath or declaration, each oath or declaration executed by an inventor must contain a complete listing of all inventors so as to clearly indicate what each inventor believes to the appropriate inventive entity. Applicant must submit complete copies of each declaration signed by the applicants. See MPEP 201.03.

The corrected patent application publication will be published in due course, unless the patent issues before the application republishes.

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709.

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

Enclosure: Corrected Filing Receipt

#4

UNITED STATES PATENT AND TRADEMARK OFFICE

1 9 AUG 2003

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Andrew N. Parfomak
Norris, McLaughlin & Marcus
30th Floor
220 East 42nd Street
New York, NY 10017

In re Application of	:	
HART, et al.	:	
Application No.: 10/380,497	:	DECISION ON REQUEST
PCT No.: PCT/EP01/10936	:	
Int. Filing Date: 21 September 2001	:	UNDER 37 CFR 1.42
Priority Date: 25 September 2000	:	
Attorney Docket No.: 102790-141	:	
For: GRANULATED COMPOSITION	:	

This is a decision on applicant's transmittal letter and combined oath, declaration and power of attorney filed in United States Patent and Trademark Office (USPTO) by facsimile on 22 July 2003. The response is being treated as a request for acknowledgment of status under 37 CFR 1.42. No petition fee is required.

BACKGROUND

On 21 September 2001, applicant filed the international application PCT/EP01/10936, which claimed a priority date of 25 September 2000. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 28 March 2002. A Demand for international preliminary examination in which the A Demand for international preliminary examination, in which the United States was elected, was filed prior to the expiration of 19 months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 25 March 2003.

On 14 March 2003, applicant filed a transmittal letter for entry into the national stage in the United States accompanied by the requisite basic national fee and a First Preliminary Amendment. An executed oath or declaration of the inventors was not included.

On 23 May 2003, applicant was mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371" (Form PCT/DO/EO/905) informing applicant of the need to provide an oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date. Applicant was afforded two months to file the proper reply and informed that this period could be extended pursuant to 37 CFR 1.136(a).

On 22 July 2002, applicant filed the current papers including a combined oath, declaration

and power of attorney executed by co-inventor Guy Edward NAISH and by Susan HART as executrix of the estate of the deceased co-inventor, Gerald Leslie HART.

DISCUSSION

Pursuant to 37 CFR 1.42, first sentence:

"In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain a patent."

The declaration filed 22 July 2003 was executed by Susan HART as executrix of the estate of the deceased co-inventor, Gerald Leslie HART. However, the declaration is not in compliance with 37 CFR 1.497 (a)-(b) in that it is unclear whether the declaration is setting forth the residence, post office address and country of citizenship of the deceased inventor, Gerald Leslie HART or the executrix. Under 37 CFR 1.497(b) the information must be provided for both the deceased co-inventor, Gerald Leslie HART and the executrix.

CONCLUSION

Applicant's petition under 37 CFR 1.42 is **DISMISSED, without prejudice**.

Applicant is hereby afforded **TWO (2) MONTHS** from the mail date of this decision to file an oath or declaration in compliance with 37 CFR 1.497 (a)-(b). Any reconsideration request should include a cover letter entitled, "Renewed Petition Under 37 CFR 1.42." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Please direct future correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Boris Milef
Legal Examiner
Office of PCT Legal Administration

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (703) 305-0130
Fax: (703) 308-6459

12 NOV 2003

#6

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Andrew N. Parfomak
Norris, McLaughlin & Marcus
30th Floor
220 East 42nd Street
New York, NY 10017

In re Application of	:	
HART, et al.	:	
Application No.: 10/380,497	:	DECISION ON REQUEST
PCT No.: PCT/EP01/10936	:	
Int. Filing Date: 21 September 2001	:	UNDER 37 CFR 1.42
Priority Date: 25 September 2000	:	
Attorney Docket No.: 102790-141	:	
For: GRANULATED COMPOSITION	:	

This decision is in response to applicant's "Renewed Petition Under 37 CFR 1.42" filed 07 October 2003 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 19 August 2003, applicant was mailed a decision dismissing applicant's request for consideration under 37 CFR 1.42 to accept the filed combined declaration and power of attorney executed by co-inventor Guy Edward NAISH and by Susan HART as executrix of the estate of the deceased co-inventor, Gerald Leslie HART. Applicant was afforded two months to file any request for reconsideration.

On 07 October 2003, applicant filed the current papers including a combined declaration and power of attorney executed by Susan HART as executrix of the estate of the deceased co-inventor, Gerald Leslie HART.

DISCUSSION

As detailed in the decision mailed 19 August 2003, pursuant to 37 CFR 1.42, first sentence:

> "In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain a patent."

The declaration filed 07 October 2003 was executed by Susan HART as executrix of the estate of the deceased co-inventor, Gerald Leslie HART. However, the declaration is not in compliance with 37 CFR 1.497 (a)-(b). While the declaration states that the residence address for

the decedent and Executrix is the same, applicant has not clarified the issue of citizenship. Revised 37 CFR 1.497(b)(2) requires that, in addition to the residence, citizenship, and post office address of the deceased inventor, the declaration must also provide this information (residence, citizenship, and post office address) for the signing legal representative. The declaration filed on 07 October 2003 provides the citizenship for only one individual thus it is unclear whether this information is for the Executrix or the deceased inventor. Accordingly, the declaration is not in compliance with 37 CFR 1.497(b)(2). Applicant is also directed to 37 CFR § 1.63 (a)(3) which requires that the declaration identify the citizenship of each inventor.

CONCLUSION

Applicant's renewed petition under 37 CFR 1.42 is **DISMISSED, without prejudice**.

Applicant is hereby afforded **TWO (2) MONTHS** from the mail date of this decision to file an oath or declaration in compliance with 37 CFR 1.497 (a)-(b). Any reconsideration request should include a cover letter entitled, "Renewed Petition Under 37 CFR 1.42." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Please direct future correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (703) 305-0130
Fax: (703) 308-6459

24 FEB 2004

#8

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Andrew N. Parfomak
Norris, McLaughlin & Marcus
30th Floor
220 East 42nd Street
New York, NY 10017

In re Application of	:	
HART, et al.	:	
Application No.: 10/380,497	:	DECISION ON REQUEST
PCT No.: PCT/EP01/10936	:	
Int. Filing Date: 21 September 2001	:	UNDER 37 CFR 1.42
Priority Date: 25 September 2000	:	
Attorney Docket No.: 102790-141	:	
For: GRANULATED COMPOSITION	:	

This decision is in response to applicant's transmittal letter and combined declaration and power of attorney filed 14 January 2004 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 12 November 2003, applicant was mailed a decision dismissing applicant's request for consideration under 37 CFR 1.42 to accept the filed combined declaration and power of attorney executed by Susan HART as executrix of the estate of the deceased co-inventor, Gerald Leslie HART. Applicant was afforded two months to file any request for reconsideration.

On 14 January 2004, applicant filed the current papers including a combined declaration and power of attorney executed by Susan HART as executrix of the estate of the deceased co-inventor, Gerald Leslie HART.

DISCUSSION

As detailed in the decision mailed 12 November 2003, pursuant to 37 CFR 1.42, first sentence:

> "In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain a patent."

The presently filed declaration executed by Susan HART as executrix of the estate of the deceased co-inventor, Gerald Leslie HART details the citizenship and residence address for both the deceased co-inventor and the executrix and thus complies with 37 CFR 1.497(a)-(b).

CONCLUSION

Applicant's renewed request for status under 37 CFR 1.42 is **GRANTED**.

This application will be given an international application filing date of 21 September 2001 and a date of **14 January 2004** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

This application is being returned to the DO/EO/US for processing in accordance with this decision.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (703) 305-0130
Fax: (703) 308-6459

16 SEP 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Andrew N. Parfomak
NORRIS, MCLAUGHLIN & MARCUS
220 East 42nd Street,
30th Floor
New York, NY 10017

In re Application of :
HART, Gerald, Lesley *et al* :
Application No.: 10/380,505 :
PCT No.: PCT/EP01/09489 :
Int. Filing Date: 17 August 2001 : **DECISION**
Priority Date: 20 September 2000 :
Attorney Docket No.: 102790-140 :
For: CLEANING DEVICE AND CONTAINER :
CONTAINING A SINGLE DOSE OF :
CLEANING MATERIAL :

This is a decision on the declaration filed 28 April 2003 which has been treated as a petition under 37 CFR 1.42. No fee is required.

BACKGROUND

On 02 June 2003, a Notification of Missing Requirements Under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US) (Form PCT/DO/EO/905) was mailed indicating that a declaration in compliance with 37 CFR 1.497(a) and (b) was required. A two-month time limit was set for response.

On 30 July 2003, applicants filed the instant response which was accompanied by, *inter alia*, a declaration signed by three of the four listed co-inventors and the executrix of a deceased co-inventor.

DISCUSSION

37 CFR 1.42 *When the Inventor is Dead*, states, in part:

> In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent.

Applicants have furnished a declaration signed by three of the four co-inventors recorded on the international publication and by Susan Hart as the legal representative of deceased co-inventor, Gerald Leslie Hart. All of the inventor's citizenship, residence and post office address are recorded on the declaration (including the deceased inventor) pursuant to 37 CFR 1.497(a).

However, 37 CFR 1.497(b)(2) also requires that the citizenship, residence, and mailing address of the legal representative be recorded on the declaration. Therefore, the declaration provided is not in compliance with 37 CFR 1.497(a) and (b).

CONCLUSION

For the reasons listed above, applicants' petition under 37 CFR 1.42 is **DISMISSED** without prejudice.

Applicants are required to provide an oath or declaration in compliance with 37 CFR 1.497(a) and (b) within a time limit of **TWO (2) MONTHS** from the mail date of this decision. Extension of time may be granted under 37 CFR 1.136(a).

Any further correspondence with respect to this matter deposited with the United States Postal Service should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (703) 308-6457

29 MAR 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

Andrew N. Parfomak
NORRIS, MCLAUGHLIN & MARCUS
220 East 42nd Street,
30th Floor
New York, NY 10017

In re Application of :
HART, Gerald, Lesley *et al* :
Application No.: 10/380,505 :
PCT No.: PCT/EP01/09489 :
Int. Filing Date: 17 August 2001 : **DECISION**
Priority Date: 20 September 2000 :
Attorney Docket No.: 102790-140 :
For: CLEANING DEVICE AND CONTAINER :
CONTAINING A SINGLE DOSE OF :
CLEANING MATERIAL :

This decision is in response to the declaration filed on 18 November 2003 which is treated as a renewed petition under 37 CFR 1.42. No fee is required.

BACKGROUND

On 16 September 2003, a decision dismissing applicants' petition under 37 CFR 1.42 was mailed. The declaration was regarded as not to contain all of the information required by 37 CFR 1.497(a) and (b). Applicants were given two months to respond.

On 18 November 2003, applicants filed the instant response which was accompanied by a supplemental declaration.

DISCUSSION

In the renewed petition, applicants submitted a supplemental declaration signed by Susan Hart as the legal representative of a deceased inventor, Gerald Leslie Hart. The citizenship, residence, and mailing address of the deceased inventor and legal representative are both recorded on this declaration.

However, the supplemental declaration appears to be a composite of a new declaration and a page from the original declaration which has been altered. The supplemental declaration consists of four pages, *i.e.*, Page 1 of 4; Page 2 of 4; Page 3 of 4; and Page 3 of 3. An examination of the page denoted as Page 3 of 3 shows that it is the last page of the original declaration filed 30 July 2003 containing non-initialed, non-dated alterations of the signature of the legal representative and date of the signature. This is not permitted. *See* 37 CFR 1.52(c)(1).

Accordingly, this declaration does not meet the requirements of 37 CFR 1.497.

CONCLUSION

For the reasons listed above, applicants' renewed petition under 37 CFR 1.42 is **DISMISSED** without prejudice.

Applicants are required to provide an oath or declaration in compliance with 37 CFR 1.497(a) and (b) within a time limit of **TWO (2) MONTHS** from the mail date of this decision. Extension of time may be granted under 37 CFR 1.136.

Any further correspondence with respect to this matter deposited with the United States Postal Service should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (703) 308-6457

15 NOV 2004

H-9

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Andrew N. Parfomak
NORRIS, MCLAUGHLIN & MARCUS
220 East 42nd Street,
30th Floor
New York, NY 10017

In re Application of
HART, Gerald, Lesley *et al*
Application No.: 10/380,505
PCT No.: PCT/EP01/09489
Int. Filing Date: 17 August 2001
Priority Date: 20 September 2000
Attorney Docket No.: 102790-140
For: CLEANING DEVICE AND CONTAINER CONTAINING A SINGLE DOSE OF CLEANING MATERIAL

DECISION

This decision is in response to the declaration filed on 26 May 2004 which is treated as a renewed petition under 37 CFR 1.42. No fee is required.

BACKGROUND

On 29 March 2004, a decision dismissing applicants' petition under 37 CFR 1.42 was mailed. Applicants were given two months to respond.

On 26 May 2004, applicants filed the instant response which was accompanied by a newly executed declaration.

DISCUSSION

Applicants submitted a new declaration signed by three joint inventors and Susan Hart as the legal representative of a deceased inventor, Gerald Leslie Hart. The citizenship, residence, and mailing address of all the joint inventors and the legal representative are recorded on this new declaration.

Accordingly, the declaration complies with 37 CFR 1.497(a) and (b).

CONCLUSION

The papers filed under 37 CFR 1.42 are **ACCEPTED**.

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 17 August 2001, under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 26 May 2004.

This application is being forwarded to the United States Designated/Elected Office for further processing in accordance with this decision.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

WENDEROTH, LIND & PONACK, L.L.P.
2033 K STREET N. W.
SUITE 800
WASHINGTON, DC 20006-1021

COPY MAILED

JAN 2 2 2008

OFFICE OF PETITIONS

In re Patent No. 7,155,893	:	
Issue Date: January 2, 2007	:	
Application No. 10/380,526	:	ON PETITION
Filed: August 6, 2003	:	
Patentee(s): Takeshi Hatano, et. al.	:	

This is a decision on the request for Certificate of Correction filed September 12, 2007, which is being treated as a request under 37 CFR 3.81[1], to correct the assignee data on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

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.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3226. Inquiries regarding the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

Andrea Smith
Petitions Examiner
Office of Petitions

[1] *See Official Gazette of June 22, 2004*

05 MAR 2004

#4

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Browdy & Neimark
624 Ninth Street, NW
Washington, DC 20001

In re Application of :
HARTAL et al. :
Application No.: 10/380,532 :
PCT No.: PCT/IL01/00868 :
Int. Filing Date: 13 September 2001 :
Priority Date: 17 September 2000 :
Attorney Docket No.: HARTAL3 :
For: TOMATO FIBER COMPOSITION, USES THEREOF AND PROCESS . . .

DECISION ON PETITION
UNDER 37 CFR 1.181

This decision is in response to applicants' "Petition to Restart Period for Reply Due to Late Receipt of Office Action (MPEP Section 710.06)" filed 13 February 2004, which is being treated as a petition under 37 CFR 1.181 to reset the period for response set in the Notification of Missing Requirements mailed 15 July 2003.

On 13 September 2001, applicants filed the above identified international application which claimed priority date of 17 September 2000. A copy of the international application was received by the United States Patent and Trademark Office from the International Bureau on 21 March 2002. A Demand was filed with the International Preliminary Examination Authority. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 17 March 2003.

On 17 March 2003, applicants filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, inter alia,: the requisite basic national fee as required by 35 U.S.C. 371(c)(1) and a copy of the international application.

On 15 July 2003, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring an oath or declaration in compliance with 37 CFR 1.497(a) and (b).

On 13 February2004, applicants filed the present petition requesting the Patent Office to reset the period for response set in the Notification of Missing Requirements mailed 15 July 2003 because the Notice of Missing Requirements was not received until 03 February 2004.

A review of the application reveals that the Declaration of Inventorship under PCT Rules 4.17(iv) and 51bis.1(a)(iv) for the purposes of the designation of the United States of America has been forwarded by the International Bureau. The declaration of inventorship filed with international application under PCT Rule 4.17(iv) and 51bis.1(a)(iv) complies with

37 CFR 1.497, therefore, the Notification of Missing Requirements (Form PCT/DO/EO/905) dated 15 July 2003 is **VACATED** and the petition under 37 CFR 1.181 is **DISMISSED** as moot.

The application has an international filing date of 13 September 2001 under 35 U.S.C. 363 and a 35 U.S.C. 371(c) date of **17 March 2003**. This application is being returned to the United States/Elected Office for processing in accordance with this decision.

Anthony Smith

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (703) 308-6314
Fax: (703) 308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Husch Blackwell Sanders, LLP
Husch Blackwell Sanders LLP Welsh & Katz
120 S RIVERSIDE PLAZA
22ND FLOOR
CHICAGO IL 60606

COPY MAILED

OCT 21 2009

OFFICE OF PETITIONS

In re Application of

Paul Anthony Hing

Application No. 10/380,570

Filed: July 28, 2003

Attorney Docket No. 89439

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) filed September 1, 2009, which will be treated as a petition to withdraw the holding of abandonment under 37 CFR 1.181(a).

The petition is **granted**.

This application was held abandoned after it was presumed that a timely and proper response was not received to the Office action mailed March 11, 2009, which set a shortened period for reply of one (1) month from its mailing date. Extensions of the time for reply were available pursuant to 37 CFR 1.136(a). A response was received on September 1, 2009; the response was accompanied by an authorization to charge a deposit account for any necessary extension of time. On August 26, 2009, a Notice of Abandonment was mailed indicating that no response to the Notice of March 11, 2009, was filed and that the maximum period for response thereto expired April 28, 2009.

The Notice of Abandonment is not correct in stating that the period for response to the Notice of March 11, 2099, expired April 28, 2009. The maximum period for response to the Notice of Non-Compliant Amendment expired September 11, 2009. See 37 CFR 1.136.

A review of the response filed September 1, 2009, reveals a standing authorization to charge a deposit account for additional fees, which might include fees for an extension of time. It is noted that 37 CFR 1.25(b) provides, in pertinent part that:

> Filing, issue, appeal, international-type search report, international application processing, petition, and post-issuance fees may be charged against these accounts if sufficient funds are on deposit to cover such fees. A general authorization to charge all fees, or only certain fees, set forth in §§ 1.16 to 1.18 to a deposit account containing sufficient funds may be filed in an individual application, either for the entire pendency of the application or with a particular paper filed. An authorization to charge fees under § 1.16 in an international application entering

> the national stage under 35 U.S.C. 371 will be treated as an authorization to charge fees under § 1.492. An authorization to charge fees set forth in § 1.18 to a deposit account is subject to the provisions of § 1.311(b). An authorization to charge to a deposit account the fee for a request for reexamination pursuant to § 1.510 or § 1.913 and any other fees required in a reexamination proceeding in a patent may also be filed with the request for reexamination. 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.

Accordingly, if sufficient funds were present in the deposit account on September 1, 2009, the USPTO could have charged the deposit account for the extension of time within the fifth month necessary to make the September 1, 2009, response timely. The petition to withdraw the holding of abandonment is granted on the basis of the general authorization to charge the deposit account found in the papers filed September 1, 2009, and the assumption that sufficient funds were in the account on September 1, 2009, to charge said amounts.

The petition fee of $810.00 will be refunded in due course.

Deposit account 23-0920 will be charged $1,175.00 for the extension of time within the fifth month.

The application file is being directed to Technology Center 2600, GAU 2622 were the response of September 1, 2009, will be considered on its merits.

Questions concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

06 APR 2004

#6

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

GLAXOSMITHKLINE
Corporate Intellectual Property - UW2220
P.O. Box 1539
King of Prussia, PA 19406-0939

In re Application of
LAFERRIERE, Craig A. J. *et al*
U.S. Application No.: 10/380,575
PCT No.: PCT/EP01/10568
Int. Filing Date: 12 September 2001
Priority Date: 15 September 2000
Attorney Docket No.: B45240
For: VACCINE

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This decision is in response to applicants' "Request for Reconsideration of Petition to Withdraw of Abandonment" ("Pet.") filed 26 March 2004. No fee is required.

BACKGROUND

On 19 June 2003, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge fee pursuant to 37 CFR 1.492(e) was required. A two-month time limit in which to respond was set with extensions of time available.

On 04 March 2004, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909) for failing to respond to the Form PCT/DO/EO/905 within the time period set therein.

On 26 March 2004, applicants filed the instant petition which was accompanied by, *inter alia*, two pages of computer generated docket records and an executed declaration.

DISCUSSION

Petitioner claims that the Form PCT/DO/EO/905 mailed 19 June 2003 was never received. Therefore, the holding of abandonment should be withdrawn.

The showing required to establish the failure to receive an Office communication consists of: (1) a statement from the practitioner declaring that the Office communication was not received by the practitioner; (2) a statement attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received; and, (3) a copy of the docket record where the nonreceived Office communication would have been entered had it been received and

docketed must be attached to and referenced in practitioners' statement.

In the petition, counsel states that "[a]pplicants . . . submit that a Notification of Missing Requirements was never received." Pet. at ¶ 1. In addition, counsel "attests that a search of the file jacket and docket records indicates that no such Notification was received and docketed in our office." Id. at ¶ 2.

These statements satisfy items (1) and (2) above.

The petitioner also submitted two pages of a computer docket sheet in the instant petition. Petitioner states that "[a] copy of the docket record where the non-received Office action would have been entered had it been received, is attached." Id. A review of these docket records show that the first one is labeled "UK Docket Week of 15 September 2003" and the other is titled "US Docket Week of 15 September 2003."

Petitioner did not provide any further explanation of these exhibits and how they demonstrate that the Form PCT/DO/EO/905 mailed 19 June 2003 was not received. Further, it is not clear why counsel submitted these exhibits as the date of 15 September 2003 has no relation to the two-month time period to respond to the Office communication.

For these reasons, item (3) is not yet satisfied.

In order to satisfy the docket record requirement to prove nonreceipt of an Office communication, applicants must provide a copy of counsel's docket records for the date upon which a response to the Notification of Missing Requirements was due (*i.e.*, 19 August 2003). *See* § 711.03(c) MPEP. An example of such a record would be a daily "tickler" report or a daily log showing all applications for which a response is due on that date.

Applicants have not met all of the requirements required to establish nonreceipt of an Office action.

CONCLUSION

Applicants' petition to withdraw the holding of abandonment is **DISMISSED** without prejudice.

The subject application remains **ABANDONED**.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition for

Withdrawing the Holding of Abandonment." No fee is required.

Any further correspondence with respect to this matter deposited with the United States Postal Service should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (703) 308-645

14 JUN 2005

#8

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

GLAXOSMITHKLINE
Corporate Intellectual Property - UW2220
P.O. Box 1539
King of Prussia, PA 19406-0939

In re Application of LAFERRIERE, Craig A. J. *et al* U.S. Application No.: 10/380,575 PCT No.: PCT/EP01/10568 Int. Filing Date: 12 September 2001 Priority Date: 15 September 2000 Attorney Docket No.: B45240 For: VACCINE	**DECISION ON** **PETITION TO REVIVE** **UNDER 37 CFR 1.137(b)**

This decision is in response to applicants' "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(B)" filed 06 June 2005.

BACKGROUND

On 06 April 2004, a decision dismissing applicants' petition to withdraw the holding of abandonment for failure to receive an office action was mailed. Petitioners were given two months to respond.

On 06 June 2005, applicants' submitted the subject petition which was accompanied by, *inter alia*, a copy of counsel's docket records for 19 August 2003 and a declaration by Ms. Jacqueline Della Vecchia.

DISCUSSION

The 06 April 2004 decision dismissing applicants' petition to withdraw the holding of abandonment for failure to receive an Office action provided applicants two months to respond with extensions of time available. However, no response was submitted until the filing of this petition.

A petition to revive pursuant to 37 CFR 1.137(b) requires: (1) a proper reply, (2) the petition fee required by law, (3) a statement that the "entire delay in filing the required reply from the due date for the reply to the filing of a grantable petition pursuant to this paragraph was unintentional," and (4) any terminal disclaimer and fee required pursuant to 37 CFR 1.137(c).

In their request for revival of this application, applicants state that "[t]he entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" as required by 37 CFR

1.137(b)(3). Applicants further explain that a docketing error occurred and "the Decision never reached our docketing clerk due to an inadvertent error on the part of an administrative assistance handling the mail received during the time period of around 4/6/2004, who for some reason failed to forward the Decision to the docketing clerk to be docketed." Applicants also provided a declaration of Ms. Jacqueline Della Vecchia, supervisor of the U.S. administrative group of GlaxoSmithKline, who corroborates this account. Applicants' explanation for the delay to respond to the 06 April 2004 decision is accepted.

In the subject petition, applicants submitted a copy of the docket records requested by the 06 April 2004 decision showing that the Notification of Missing requirements mailed 19 June 2003 was not received and docketed. This is an acceptable reply. The petition fee of $1,500.00 and surcharge fee of $130.00 have been charged to Deposit Account No. 19-2570 as authorized. A terminal disclaimer is not required.

Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

CONCLUSION

In view of the above, applicants' petition under 37 CFR 1.137(b) is **GRANTED**.

The declaration filed 26 March 2004 is in compliance with 37 CFR 1.497(a) and (b). Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 12 September 2001, under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 26 March 2004.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

28 MAY 2003
UNITED STATES PATENT AND TRADEMARK OFFICE
#3
COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Adler & Associates
8011 Candle Lane
Houston, TX 77071

In re Application of	:	
Shafer	:	
Application No. 10/380,596	:	DECISION ON
PCT No.: PCT/US01/07508	:	
Int. Filing Date: 09 March 2001	:	PETITION UNDER
Priority Date: 09 March 2000	:	
Atty. Docket No.: D6430PCT	:	37 CFR 1.137(b)
For: Systems And Methods To Quantify And Amplify Both Signaling And Probes For cDNA Chips And Genes Expression Microarrays	:	

This is in response to the petition under 37 CFR 1.137(b) filed on 17 March 2003.

BACKGROUND

This international application was filed on 09 March 2001 and claimed earliest priority of an application filed on 09 March 2000. A Demand electing the United States was filed prior to the elapse of 19 months from the priority date. Accordingly, the 30 month time period for paying the basic national fee in the United States expired at midnight on 09 September 2002. This international application became abandoned with respect to the United States for failure to timely pay the required basic national fee.

DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed; (2) the petition fee as set forth in § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Regarding requirement (1), the petition was accompanied by the required reply in the form of the basic national fee.

Regarding requirement (2), the petition was accompanied by the petition fee.

Regarding requirement (3), the petition includes a statement that "The abandonment of the above-referenced application and the entire delay, from the date of the abandonment

to the filing of this Petition to Revive, was unintentional." This statement is being construed as a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Petitioner must notify the Patent and Trademark Office if such an interpretation of the statement in the petition is not correct. Thus, the statement in the petition is being accepted in satisfaction of 37 CFR 1.137(b)(3).

Regarding requirement (4), no terminal disclaimer is required because the international filing date of this application is later than 8 June 1995.

DECISION

The petition under 37 CFR 1.137(b) is **GRANTED**.

Petitioner's Deposit Account No. 07-1185 is being charged in the amount of $65.00 for the surcharge under 37 CFR 1.492(e), as authorized by the petition.

This application is being forwarded to the National Stage Processing Branch for further processing. The date of the application under 35 U.S.C. 371 (c)(1), (2) and (4) is **17 March 2003**.

Leonard Smith
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (703) 308-6721
Fax: (703) 308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DAVIS & BUJOLD, P.L.L.C.
FOURTH FLOOR
500 N. COMMERCIAL STREET
MANCHESTER NH 03101-1151

COPY MAILED

APR 25 2005

OFFICE OF PETITIONS

In re Application of	:	
Per Harald Olsen et al	:	
Application No. 10/380,601	:	ON PETITION
Filed: April 9, 2003	:	
Attorney Docket No. INTSER P30AUS	:	

This is a decision on the petition, filed April 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 September 20, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 1772 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. _____

Date : April 25, 2005

TO : Director, Office of Patent Publication

COPY MAILED
APR 25 2005
OFFICE OF PETITIONS

FROM : Office of the Deputy Commissioner for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Per Harald Olsen et al
Application No. :10/380,601
Filed :April 9, 2003

The above-identified application has been assigned Patent No. 6,890,611 and an issue date of May 10, 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 May 10, 2005:

"All reference to Patent No. 6,890,611 to Per Harald Olsen et al of Norway for LAMINAR LABEL AS WELL AS A METHOD AND AN APPARATUS FOR PRODUCING THE SAME appearing in the Official Gazette of May 10, 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

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

16 JUL 2003

Milde Hoffberg & Macklin
10 Bank Street
Suite 460
White Plains, NY 10606

In re Application of SCHÄFFELER et al. Application No.: 10/380,603 Filing Date: 14 March 2003 Attorney Docket No.: None For: METHOD FOR PRODUCING AN EMBOSSED EFFECT ON A PLASTIC SHEET AND PLASTIC SHEETS EMBOSSED BY MEANS OF SAID METHOD	DECISION ON PAPERS FILED UNDER 35 U.S.C. 111(a)

This communication is in response to application papers filed by applicant in the United States Patent and Trademark Office (USPTO), on 14 March 2003 in the above-captioned application.

On 10 July 2002, applicant filed international application PCT/EP02/07669, which claimed a priority date of 14 July 2001. A copy of the international application was transmitted to the United States Patent and Trademark Office (USPTO) by the International Bureau (IB) upon publication of the international application on 30 January 2003. A Demand for international preliminary examination was filed. Accordingly, the thirty month period for paying the basic national fee in the United States would expire at midnight on 15 December 2003 (14 December 2003 is a Sunday).

On 14 March 2003, applicant filed a transmittal letter to the United States (Form PTO-1390), which was accompanied by, *inter alia*, the basic national fee of $900 and a communication entitled "Statement under 37 CFR 1.41(c)".

DISCUSSION

As explained at Section 1893.03(a) of the Manual of Patent Examining Procedure (MPEP), any intended filing of an international application as a national stage application must clearly and unambiguously be identified as such and must satisfy all of the conditions set forth in 35 U.S.C. 371(c). The official PTO Notice published in the Official Gazette at 1077 OG 13 entitled "Minimum Requirements for Acceptance of Applications Under 35 U.S.C. 371 (the National Stage of PCT)" states, in part, the following:

> The Patent and Trademark Office is continuing to receive application papers which do not clearly identify whether the papers (1) are being submitted to enter the national stage of the Patent Cooperation Treaty (PCT) under 35 U.S.C. 371 or (2) are being filed as a regular national application under 35 U.S.C. 111.
>
> * * *
>
> If there are any conflicting instructions as to which sections of the statute (371 or 111) is intended the application will be accepted under 35 U.S.C. 111.

On 14 March 2003, applicant filed a transmittal letter to the United States concerning a filing under 35 U.S.C. 371. Applicant provided a description, claims, abstract and drawings. However, applicant made reference to 35 U.S.C. 111 in his "Statement under 37 CFR 1.41(c)" in conflict with the instruction for entry into the national stage in the USPTO. Therefore, the papers filed on 14 March 2003 are considered a U.S. application under 35 U.S.C. 111(a).

CONCLUSION

This application is accepted as an application filed under 35 U.S.C. 111(a) with a filing date of 14 March 2003. The basic utility fee for an application filed under 35 U.S.C. 111(a) is $750. Since applicant submitted a fee of $900 with his application papers, his deposit account will be refunded the difference of $150.

The application will forwarded to the United States Designated/Elected Office (DO/EO/US) for removal of the Article 20 papers communicated from the International Bureau to the United States of America.

Applicant is advised that an application under 35 U.S.C. 371 may be timely filed until midnight 15 December 2003.

The application will then be forwarded to the Office of Initial Patent Examination (OIPE) for further processing as a national application filed under 35 U.S.C. 111(a) with a filing date of 14 March 2003.

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: 703-306-5467
Facsimile: 703-308-6459

CMK/LES:cmk

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

MILDE HOFFBERG & MACKLIN
10 BANK STREET, SUITE 460
WHITE PLAINS, NY 10606

COPY MAILED

JUN 0 1 2005

OFFICE OF PETITIONS

In re Application of	:	
Lothar Schaeffeler et al	:	
Application No. 10/380,603	:	DECISION GRANTING PETITIONS
Filed: March 14, 2003	:	
Attorney Docket No. HH 292-KFM	:	

This is a decision on the petition, filed May 18, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee. This is also a decision on the petition under 37 CFR 1.78(a)(3), which is also being treated as a petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of prior-filed PCT Application No. PCT/EP02/07669, filed July 14, 2001, and under 35 U.S.C. § 119(a)-(d) for the benefit of a prior-filed foreign application; namely, German Application No. 101 34 392.2, filed July 14, 2001.

The petition under 37 CFR 1.313(c)(2) is **GRANTED**.

The petitions under 37 CFR 1.78(a)(3) and 37 CFR 1.55(c) are **GRANTED**.

As to the petition under 37 CFR 1.313(c)(2):

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 4, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

---

[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).*

after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The petition satisfies the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the above-noted, prior-filed PCT application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, the delay in timely filing the claim for priority to the above-noted, prior-filed PCT application is accepted as having been unintentionally delayed.

As to the benefit claim under 37 CFR 1.55(c):

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;
(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date, **and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6);**
(3) the surcharge as set forth in 37 CFR 1.17(t);
(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional. (The Commissioner may require additional information where there is a question whether the delay was unintentional.); and
(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

The above-identified pending nonprovisional application was filed on March 14, 2003, which is after November 29, 2000, and the intermediate PCT application was filed July 10, 2002, within 12 months of July 14, 2001, which is the earliest filing date of the foreign application to which benefit is claimed. The declaration filed on May 16, 2003 also identifies the foreign application for which priority is claimed by application number, country and filing date. Pursuant to petitioner's authorization, the $1,370 surcharge will be charged to petitioner's Deposit Account No. 50-0427.

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 above-noted, prior-filed applications 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 and 365(c) and 37 CFR 1.78(a)(1) and (a)(2) and 35 § U.S.C. 119(a)-(d) and 37 CFR 1.55(a)(1) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3218. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 1762 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 prior-filed PCT application and for consideration of the claim for priority under 35 U.S.C. § 119(a)-(d) for the benefit of the foreign application.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

SUTHERLAND ASBILL & BRENNAN LLP
999 PEACHTREE STREET, N.E.
ATLANTA GA 30309

COPY MAILED

MAR 28 2007

OFFICE OF PETITIONS

Applicant: Martin et al.
Appl. No.: 10/380,605
International Filing Date: September 14, 2001
Title: SILICOBORONCARBONITRIDE CERAMICS AND PRECURSOR COMPOUNDS, METHOD FOR THE PRODUCTION AND USE THEREOF
Attorney Docket No.: 18744-0016
Pub. No.: US 2005/0119106 A1
Pub. Date: June 2, 2005

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on December 19, 2006, for the above-identified application.

The request is DISMISSED.

The instant request is that the application be republished because the patent application publication contains material errors, as the specification and claims have been replaced with the contents of another application.

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed **within two months** from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. [1]

The request for corrected publication received on December 19, 2006, was not timely filed under 37 CFR 1.221(b).

The patent application publication was published with the contents of another application. Due to the nature of the errors in this publication, the office will *sua sponte* publish a corrected patent application publication. The corrected patent application publication will be published in due

[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).

course, unless the application is allowed and the patent issues before the application is republished.

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709 (voice).

Mark O. Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SUTHERLAND ASBILL & BRENNAN LLP
999 PEACHTREE STREET, N.E.
ATLANTA GA 30309

COPY MAILED

SEP 1 0 2008

OFFICE OF PETITIONS

In re Patent No. 7,297,649 :
Issue Date: November 20, 2007 :
Application No. 10/380,605 : ON PETITION
Filed: September 16, 2003 :
Attorney Docket No. 18744-0016 :

This is a decision on the petition filed March 10, 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 "Fraunhofer Gesellschaft zur Forderung der angewandten Forschung e.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 [emphasis added]. *See also* MPEP 1481.01.

U.S. Patent and Trademark Office assignment records do not disclose that an assignment to Fraunhofer Gesellschaft zur Forderung der angewandten Forschung e.V. was recorded on before the date of issuance of this patent. Also, the petition does not state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent. Accordingly, since the assignment was not submitted for recordation before issuance of this patent, issuance of a certificate of correction would not be proper.

Furthermore, since the petition has been processed, the processing fee set forth in § 1.17(i) ($130.00) has been charged to deposit account no. 19-5029 as authorized in the petition.

Telephone inquiries concerning this decision on petition should be directed to Christopher Bottorff at (571) 272-6692.

Christopher Bottorff
Petitions Examiner
Office of Petitions

07 DEC 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

FOLEY AND LARDNER
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

In re Application of MARTIN LUCK et al. Application No.: 10/380,623 PCT No.: PCT/GB02/03116 Int. Filing Date: 08 July 2002 Priority Date: 12 July 2001 Attorney's Docket No.: 052209-0102 For: THE USE OF A GNRH ANTAGONIST PEPTIDE IN THE TREATMENT OF SEX HORMONE-DEPENDENT DISEASES	:	DECISION

This application is before the PCT Legal Office for consideration of matters arising under 35 U.S.C. 371.

BACKGROUND

On 08 July 2002, applicant filed international application PCT/GB02/03116, which claimed priority of an earlier British application filed 12 July 2001.

On 17 March 2003, applicant filed a transmittal letter requesting filing under 35 U.S.C. 371 in the United States which was accompanied by, *inter alia*, the basic national fee of $900.

On 20 August 2003, applicants filed a response to the 20 June 2003 Notification of Missing Requirements, including an executed declaration.

On 26 September 2003, a Notification of Acceptance was erroneously mailed to applicant.

DISCUSSION

On 17 March 2003, applicant submitted U.S. national application papers including an amended specification indicating the following : "This application is a Continuation-in-Part Application of International Application No. PCT/GB2002/03116 filed in English on July 8, 2002, which was published in English on January 23, 2003 as WO 03/006049, and which claims benefit of British Application No. GB 0117057.0 filed on July 12, 2001."

As explained at Section 1893.03(a) of the Manual of Patent Examining Procedure (MPEP), any intended filing of an international application as a national stage application must clearly and unambiguously be identified as such and must satisfy all of the conditions set forth in 35 U.S.C. 371(c). The official PTO Notice published in the Official Gazette at 1077 OG 13 entitled "Minimum

Requirements for Acceptance of Applications Under 35 U.S.C. 371 (the National Stage of PCT)" states, in part, the following:

> The Patent and Trademark Office is continuing to receive application papers which do not clearly identify whether the papers (1) are being submitted to enter the national stage of the Patent Cooperation Treaty (PCT) under 35 U.S.C. 371 or (2) are being filed as a regular national application under 35 U.S.C. 111.
>
> * * *
>
> If there are any conflicting instructions as to which sections of the statute (371 or 111) is intended the application will be accepted under 35 U.S.C. 111.

The Transmittal Letter (Form PTO-1390) filed on 17 March 2003 identified the application as "a filing under 35 U.S.C. 371." The specification, filed on the same date, in the first line identifies the papers as a "Continuation-in-Part of International Application No. PCT/GB02/03113...". The Transmittal Letter (Form-1390) used by applicant is to be used only with submissions under 35 U.S.C. 371. The Office provides the TRANSMITTAL LETTER TO THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US) CONCERNING A FILING UNDER 35 U.S.C. 371 (FORM PTO-1390) so that applicants can comply with 37 CFR 1.495(g) and so that the Office's personnel can readily distinguish between submissions under 35 U.S.C. 371 and 35 U.S.C. 111(a). Applicants submitted the papers with the Transmittal Letter indicating that applicants were filing under 35 U.S.C. 371. The filing of the PTO-1390 is viewed by office personnel as a clear indication of papers submitted under 35 U.S.C. 371.

Nevertheless, applicants' reference to the papers as a continuation-in-part application in the specification is inconsistent with the Transmittal Letter filed 17 March 2003 and contradicts the request in the Transmittal Letter to file under 35 U.S.C. 371. A national application which requests treatment as a continuation-in-part of an earlier international application cannot be considered the national stage application of that international application, and under the present circumstances, the statement in the specification is an indication of papers filed under 35 U.S.C. 111(a).

In view of the above, it is proper to treat the initial filing as a filing under 35 U.S.C. 111(a). The declaration filed on 20 August 2003 and the specification filed on 17 March 2003 met the requirements for granting a filing date for a filing under 35 U.S.C. 111(a). Accordingly, it is proper to accept the papers as a filing under 35 U.S.C. 111(a) with an filing date of 17 March 2003. The Notification of Acceptance under 35 U.S.C. 371 (Form PCT/DO/EO/903) mailed 26 September 2003 is **VACATED**.

Applicants are entitled to claim benefit under 35 U.S.C. 120 and 365(c) of the filing date of the international application for the common subject matter, since this application (Serial No. 10/488,313) and the international application (PCT/GB02/03113) designating the United States were copending on 17 March 2003.

CONCLUSION

The papers filed on 17 March 2003 will be treated as a U.S. application filed under 35 U.S.C. 111(a) .

The Notification of Acceptance mailed on 26 September 2003 is hereby **VACATED**. The basic national fee of $900 (fee code 1613), $130 surcharge for filing the declaration after the thirty month period (fee code 1617) and $900 for extra claims (fee code 1615) will be refunded to applicant's deposit account,

This application is being forwarded to the International Division for removal of the papers communicated from the International Bureau to the United States of America. The application will then be forwarded to Office of Initial Patent Examination (OIPE) for processing as a regular national application under 35 U.S.C. 111(a) with a filing date of **17 March 2003.**

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office
Office of PCT Legal Administration

Telephone: (571) 272-3286
Facsimile: (571) 273-0459

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

NATH & ASSOCIATES
1030 15th STREET, NW
6TH FLOOR
WASHINGTON, DC 20005

COPY MAILED

AUG 0 8 2005

OFFICE OF PETITIONS

In re Patent No. 6,869,949 :
Issued: March 22, 2005 :
Application No. 10/380,624 : PATENT TERM ADJUSTMENT
Filed: July 2, 2003 :
Atty. Dkt. No.: 25349 :

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT," filed April 20, 2005. This matter is being treated under 37 C.F.R. § 1.705(d).

The application for patent term adjustment ("PTA") under 37 C.F.R. § 1.705(d) is **GRANTED**.

The above-identified application matured into U.S. Patent No. 6,869,949 on March 22, 2005. The instant request for reconsideration was timely filed April 20, 2005 in accordance with 37 C.F.R. § 1.705(d).

The patent issued with a PTA of 77 days. Applicant argues that the adjustment of 205 days was improperly reduced 128 days and that the proper reduction is 120 days.

A review of the application reveals that an adjustment of 205 days in accordance with 37 C.F.R. § 1.702(a)(4) can be attributed to the Office. In accordance with 37 C.F.R. § 1.703(a)(4), the adjustment began April 30, 2004, the day after the day that is four months after the day of receipt of issue fee payment, and ended March 22, 2005, the date of issuance of patent.

The adjustment of 205 days, however, is reduced 120 days in accordance with 37 C.F.R. § 1.704(c)(10) for submission of a Rule 312 amendment. The reduction began April 29, 2004, the date the amendment was filed, and ended 120 days later in accordance with § 1.704(c)(10)(ii).

The Office errantly entered May 7, 2004 as the date a request for foreign priority was submitted.

Thus, at the time of issuance, the patent was entitled to a PTA 85 days, as argued by applicant.

The PTA indicated on the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of 85 days.

This application file will be forwarded to the Certificate of Corrections branch for issuance of a certificate of correction to indicate that the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 85 days.

The Office acknowledges submission of the required application fee of $200.00.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (703) 305-0310.

Karin A. Ferriter for

Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Draft Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

COPY MAILED
MAY 21 2008

In re Application of	:	
Hajime Sakamoto et al	:	
Application No. 10/380,631	:	DECISION GRANTING PETITION
Filed: March 21, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 233209US90PCT	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed May 21, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on April 8, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 2841 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

MAILED

APR 15 2009

OFFICE OF PETITIONS

In re Application of :
Hajime Sakamoto, et al. :
Application No.: 10/380,631 :
Filed: March 21, 2003 :
Attorney Docket No.: 233209US90PCT :

ON PETITION

This is a decision on the petition, filed April 15, 2009, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on March 23, 2009, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2841 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement (IDS).

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B - Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA VA 22314

MAILED

OCT 01 2009

OFFICE OF PETITIONS

In re Application of	:	
Hajime Sakamoto et al	:	
Application No. 10/380,631	:	DECISION ON PETITION
Filed: March 21, 2003	:	UNDER 37 CFR 1.313(c)
Attorney Docket No. 233209US90PCT	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed September 30, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 17, 2009, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 2841 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDA.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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.
10/380,650	03/14/2003	Katsuyuki Tanaka	7217/67561	8888

530 7590 11/18/2009
LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD, NJ 07090

EXAMINER
PANWALKAR, VINEETA S

ART UNIT	PAPER NUMBER
2611	

MAIL DATE	DELIVERY MODE
11/18/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20091116

DATE : November 16, 2009

TO SPE OF : ART UNIT

SUBJECT : Request for Certificate of Correction on Patent No.: 7280586

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:

Changes are approved because they merely correct typographical errors and do not affect the scope/meaning of the claims nor do they add new matter.

/David C. Payne/
Supervisory Patent Examiner, Art Unit 2611

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : June 06, 2008

TO SPE OF : ART UNIT 1617

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/380653 Patent No.: 7307087 B2

A response is requested with respect to a request for a certificate of correction.

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW within 7 days, please complete and forward the response to the employee (named below) via scanning into application images, using document code COCX

DO NOT SENT TO ATTORNEY

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within 7 days, to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

[redacted]

LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

X Approved	All changes apply.
☐ Approved In Part	Specify below which changes do not apply.
☐ Denied	State the reasons for denial below.

Formatted: Indent: Left: 1.22"

Comments: _____

SPE 1617 Art Unit

PTOL-306 (REV. 7/03) U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

SREENI PADMANABHAN
SUPERVISORY PATENT EXAMINER

11 JUN 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
www.uspto.go

Mark J. Burns
1130 TCF Tower
121 South Eight Street, Suite 1130
Minneapolis, MN 55402

In re Application of AUSTIN et al. Serial No.: 10/380,663 PCT No.: PCT/GB01/04056 Int. Filing Date: 10 September 2001 Priority Date: 11 September 2000 Attorney's Docket No.: 2003.1695.ORI For: METHOD AND APPARATUS FOR ANALYTICAL PROBLEM SOLVING	DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 17 March 2003 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that the "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional"meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that the basic national fee of $1060 has been paid. The required petition fee of $1300 has also been paid. Thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office for further processing including the issuance of a Notification of Missing Requirements indicating that an oath or declaration in compliance with 37 CFR 1.497 and the $130 surcharge for filing the oath or declaration after the thirty month period is required.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (703) 306-5467

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Application of	: DECISION ON REQUEST
Jens Jorgen Nielsen	: UNDER 37 CFR 1.97
Serial No: 10/380,665	: FOR CONSIDERATION
Filed: October 3, 2003	: OF INFORMATION
For: Linear Actuator	: DISCLOSURE STATEMENT

The request under 37 CFR 1.97(d) for consideration of an information disclosure statement filed on July 11, 2005 after allowance has been:

(X) GRANTED.

( ) DENIED.

The request lacks:

( ) The required fee under 37 CFR 1.97(d)(2) and 1.17(p).

( ) A proper certification as specified in 37 CFR 1.97(e)(1) or 1.97(e)(2). 37 CFR 1.97(e)(1) requires statement to include that each item of information contained in the IDS was **first** cited in **any** communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of the IDS.

The information disclosure statement has been placed of record in the file and will be considered by the examiner. See Federal Register 65 Fed. Reg. 54603 (September 8, 2000); Official Gazette 1238 Off. Gaz. Pat Office 77 (September 19, 2000) for rule changes fo 37 CFR 1.97.

NOTE: The petition dated Sept 22, 2005 is moot in view of the original petition (dated July 11, 2005) having been perfected via proper certification and the fee letter.

Richard Ridley, SPE
Art Unit 3682
(571) 272-6917

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.

COPY MAILED

SEP 28 2007

OFFICE OF PETITIONS

BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA VA 22313-1404

In re Application of
Vincent Grainer et al.
Application No. 10/380,671
Filed: Mach 18, 2003
Attorney Docket No.: 004900-236
Title: METHOD FOR PROVIDING WOODEN SUBSTRATES WITH HIGH RESISTANCE AGAINST ATTACK FROM CHEMICAL PRODUCTS

DECISION ON PETITION
UNDER 37 C.F.R. § 1.181

This is a decision on the petition filed on July 6, 2007, pursuant to 37 C.F.R. § 1.181, requesting that the holding of abandonment in the above-identified application be withdrawn.

BACKGROUND

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R § 1.113 in a timely manner to the final Office action mailed November 15, 2006, which set a shortened statutory period for reply of three months. An after-final amendment was received on April 16, 2007 along with a two-month extension of time[1]. No further extensions of time under the provisions of 37 C.F.R § 1.136(a) were obtained, and no further responses were received. Accordingly, the above-identified application became abandoned on April 16, 2007. A notice of abandonment was mailed on June 4, 2007.

1 It is noted that April 15, 2007 fell on a Sunday.

RELEVANT PORTION OF THE MPEP

Section 503 of the MPEP, entitled Application Number and Filing Receipt, sets forth, in part:

> 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 postcard 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.

ANALYSIS

With the present petition, Petitioner has asserted that a Request for Continued Examination (RCE), along with the associated fee, was filed concurrently with the after-final amendment of April 16, 2007.

Petitioner has submitted a copy of this submission, along with a postcard receipt that evinces that a "Request for Continued Examination" was received in the Office of Initial Patent Examination (OIPE) on April 16, 2007.

Moreover, Office records indicate that the fee associated with the filing an RCE was charged to Petitioner's Deposit Account on April 17, 2007, and the associated request to charge this fee was received on April 16, 2007.

Petitioner has requested that the holding of abandonment in the above-identified application be withdrawn. It is clear that a response was timely submitted. 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 RCE what was submitted with the present petition (originally submitted on April 16, 2007) can be processed. The amendment that was received on April 16, 2007 shall serve as the submission pursuant to 37 C.F.R. § 1.114(c).

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[2]. All other inquiries

---

2 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

concerning examination procedures or status of the application should be directed to the Technology Center.

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
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Sardoll Singh Lall
99 Worple Way
Harrow HA2 9SW GB
UNITED KINGDOM

COPY MAILED
JUL 17 2006
OFFICE OF PETITIONS

In re Application of:	:	
Sardoll Singh Lall	:	
Application No. 10/380,674	:	DECISION ON
Filed: March 18, 2003	:	PETITION UNDER
Title of Invention:	:	37 CFR 1.137(b)
TIME KEEPING SYSTEM AND WATCH	:	

This is a decision in response to the petition under 37 CFR 1.137(b), filed February 7, 2006, to revive the above-identified application. The delay in treating this petition is regretted.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance and Issue Fee Due, mailed August 22, 2005, which set a non-extendable statutory period for reply of three (3) months. Accordingly, the application became abandoned on November 23, 2005. A Notice of Abandonment was mailed on February 23, 2006.

With the instant petition, Applicant has satisfied the requirements of a grantable petition under 37 CFR 1.137(b). The issue fee is filed with the instant petition. Accordingly, the petition is granted.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

NIXON PEABODY, LLP
401 9TH STREET, NW
SUITE 900
WASHINGTON DC 20004-2128

COPY MAILED

MAY 1 8 2007

OFFICE OF PETITIONS

In re Application of

Markus Nigrin
Application No. 10/380,693
Filed: March 18, 2003
Attorney Docket No. 741439-6

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 16, 2006.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272- 2991.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Ms. Donna Kraft, CP**
Legal Administrator
Hewlett-Packard Legal Department
3404 E. Harmony Road, MS 79
Fort Collins, CO 80528-9599

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12/6/06

TO SPE OF : ART UNIT 1745

SUBJECT : Request for Certificate of Correction on Patent No.: 7063918

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Valerie Jackson

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 ext. 114

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☑ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

The COC is approved because the Patent Office incorrectly printed the allowed clms. All errors in the issued Patent are the fault of the PTO

SPE

1745
Art Unit

10 MAY 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Rothwell Figg Ernst & Manbeck PC
1425 K Street NW
Suite 800
Washington, DC 20005

In re Application of DUFOURNIER, Arnaud Application No.: 10/380,700 PCT No.: PCT/FR01/02853 Int. Filing Date: 13 September 2001 Priority Date: 15 September 2000 Attorney Docket No.: 2979-0105 For: METHOD AND SYSTEM ... ON A VEHICLE	DECISION ON PETITION UNDER 37 CFR 1.181

This decision is in response to "Petition to Withdraw Holding of Abandonment," filed on 25 March 2004.

BACKGROUND

On 13 September 2001, applicants filed international application PCT/FR01/02853. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 21 March 2002. A demand for international preliminary examination was filed on 09 February 2002 within nineteen months of the priority date. The deadline for entry into the national stage in the United States was thirty months from the priority date, or 17 March 2003 (15 March 2003 was a Saturday).

On 17 March 2003, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee and a declaration.

On 26 March 2003, the Office mailed NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, a translation of the international application and the processing fee for late filing fo the translation were required.

On 03 March 2004, the Office mailed Notification of Abandonment indication that the application went abandoned for failure to timely reply to the 26 March 2003 Notification of Missing Requirements.

On 25 March 2004, applicant submitted the instant petition accompanied by a translation of the international application and the necessary fees.

DISCUSSION

The Notification of Abandonment mailed 03 March 2004, issued in error as extensions of time were available through 26 March 2004. The 25 March 2004 translation was a timely reply.

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.181 is **GRANTED**.

The Notification of Abandonment (Form PCT/DO/EO/909) mailed 03 March 2004 is **VACATED**.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision, including the mailing of a Notification Of Acceptance (Form PCT/DO/EO/903) and filing receipt. The date under 35 U.S.C. §§371(c)(1), (c)(2) and (c)(4) date is 25 March 2004.

Erin M. Pender

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: 703-305-0455
Facsimile: 703-308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JAN 12 2005

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER
LLP
1300 I STREET, NW
WASHINGTON DC 20005

In re Application of	:
Ambrose et al.	:
Serial No.: 10/380,703	: PETITION TO MAKE SPECIAL
Filed: March 17, 2003	:
Attorney Docket No.: 08201.0023	:

This is in response to applicants' petition filed October 21, 2004, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

Applicants have satisfied the provisions set forth in M.P.E.P. 708.02, VIII. (A), (B), (C), (D), and (E). The $130.00 petition fee as required by 37 CFR 1.17(h) was paid by check. Therefore, the petition is **GRANTED**.

The application will be forwarded the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact Marianne C. Seidel by letter addressed to the Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0584 or by facsimile transmission at the general Office facsimile number, (703) 872-9306.

Marianne C. Seidel

Marianne C. Seidel
Special Program Examiner
Technology Center 1600

13 JUL 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

27160
KATTAN MUCHIN ZAVIS ROSENMAN
525 West Monroe Street, Suite 1600
Chicago, IL 60661-1061

In re Application of
VAN KRIEKEN, Jan
Application No.: 10/380,706
PCT No.: PCT/NL01/00682
Int. Filing Date: 14 September 2001
Priority Date: 15 September 2000
Attorney Docket No.: 215545.02000
For: METHOD FOR THE PURIFICATION OF AN α-HYDROXY ACID ON AN INDUSTRIAL SCALE

DECISION UNDER 37 CFR 1.182

This decision is in response to applicant's "Response to Notification of Missing Requirements and Petition for Extension of Time Under 37 C.F.R. 1.136(a)" filed on 17 July 2001. This is treated as a petition under 37 CFR 1.182 to correct the customer number on the national stage papers.

BACKGROUND

On 17 March 2003, applicant filed papers to enter the national stage for PCT/NL01/00682. The transmittal letter (Form PTO-1390) indicated a customer number of 21760.

On 10 June 2003, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905) to customer number 21760 indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and a $130.00 surcharge fee must be provided. A two-month time period for response was set with extensions of time available.

On 12 January 2004 and again via facsimile on 25 February 2004, applicant filed the instant response which was accompanied by, *inter alia*, a five-month extension of time and fee of $2,010.00, an executed declaration, and a $130.00 surcharge fee.

DISCUSSION

In the instant response, applicant explains that the Form PCT/DO/EO/905 was never received due to a "typographical error in the customer number on the transmittal." Applicant states that the correct customer number is **27160**, not 21760.

A review of the Form PCT/DO/EO/905 mailed 10 June 2003 in the above-captioned application shows that applicant could not have received it because it was mailed to customer no. 21760 in New York. The transmittal papers filed 17 March 2003 show that counsel is located in Illinois.

This is treated as a petition under 37 CFR 1.182 to correct applicants' error in captioning the customer number wrong on the transmittal letter. The $130.00 petition fee pursuant to 37 CFR 1.182 has been charged to Deposit Account No. 50-1710 as authorized.

The five-month extension of time fee of $2,010.00 is not warranted in this situation and has been credited to Deposit Account No. 50-1710 as authorized.

DECISION

The petition under 37 CFR 1.182 to correct the customer number on the papers filed 17 March 2003 is hereby **GRANTED**.

The customer number in USPTO records will be changed to **27160**.

The executed declaration filed 12 January 2004 is in compliance with 37 CFR 1.497(a) and (b).

Applicant has completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 14 September 2001, under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 12 January 2004.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (703) 308-6457

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

Joseph S Tripoli
Thomson Multimedia Licensing Inc
PO Box 5312
Princeton, NJ 08540

COPY MAILED

SEP 28 2007

OFFICE OF PETITIONS

In re Application of

Pugel, et al. :

Application No. 10/380,716 ON PETITION

Filed: March 18, 2003

:

Attorney Docket No. PU010215

This is a decision on the petition under 37 CFR 1.137(b), filed February 13, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to file a proper reply in a timely manner to the final Office action mailed July 13, 2006, which set a shortened statutory period for reply of three (3) months from its mailing date. An amendment was filed January 16, 2007, with a request for an extension of time within the third month. An Advisory Action mailed January 30, 2007, advised petitioner that the response of January 16, 2007, failed to place the application in condition for allowance. No further responses were filed within the allowable period. The application became abandoned on January 14, 2007.

The Request for Continued Examination filed February 13, 2007, is noted.

The application is being forwarded to Technology Center 2600, GAU 2622 for further processing

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JOSEPH S. TRIPOLI
THOMSOM MULTIMEDIA LICENSING
PO BOX 5312
PRINCETON, NJ 08543-5312

COPY MAILED

DEC 1 2 2007

OFFICE OF PETITIONS

In re Application of :
PUGEL, et al. :
Application No. 10/380,717 :
Filed: March 18, 2004 :
Attorney Docket No. **PU010214** :

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 23, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of June 19, 2006. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is September 20, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $790, and the submission required by 37 CFR 1.114; (2) the petition fee of $1500; and (3) a proper statement of unintentional delay.

The petition is not signed by an attorney of record. Nevertheless, in accordance with 37 CFR 1.34, the signature of Mr. Brian J. Cromarty appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent that particular party on whose behalf he acts.

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 2622 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

12 MAR 2004

#8

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

David A. Cherry
Woodcock Washburn LLP
One Liberty Place - 46th Floor
Philadelphia, PA 19103

In re Application of	:	
WALDMAN, Scott A. et al.	:	
Application No.: 10/380,718	:	
PCT Application No.: PCT/US01/29091	:	DECISION ON
International Filing Date:18 Sept. 2001	:	
Attorney Docket No.:TJU-2438	:	REQUEST TO
For: COMPOSITIONS AND METHODS	:	
FOR IDENTIFYING AND	:	WITHDRAW AS ATTORNEY
TARGETING STOMACH AND	:	
ESOPHAGEAL CANCER CELLS	:	

The "Withdrawal As Attorney," filed in the United States Patent and Trademark Office (USPTO) by the attorneys associated with Customer Number 23377 on 11 September 2003 is **Approved**.

BACKGROUND

On 18 March 2003, Applicant filed Application No. 10/380,718. The transmittal form filed on this date is signed by David A. Cherry, a member of Woodcock Washburn LLP. The form was accompanied by an unsigned declaration that included a power of attorney—also unsigned—appointing the practitioners associated with Customer Number 23377, which is the Customer Number assigned to Woodcock Washburn LLP, to prosecute the application. Another member of Woodcock Washburn, Mark Deluca, was the agent for the corresponding international application.

On 11 August 2003, the USPTO mailed Form PCT/DO/EO/905. The form set a period for reply to it.

On 11 September 2003, the "Withdrawal As Attorney" letter that is mentioned above was filed.

On 15 December 2003, a communication responding to the 905 form was filed by an attorney not affiliated with Customer Number 23377. The 15 December communication includes a new power of attorney.

DISCUSSION

The relevant part of MPEP 402.06 states:

402.06 Attorney or Agent Withdraws

* * *

In the event that a notice of withdrawal is filed by the attorney or agent of record . . . appropriate procedure will be followed pertaining to the withdrawal. The withdrawal is effective when **approved** rather than when received.

* * *

Because the Office does not recognize law firms, each attorney of record must sign the notice of withdrawal, or the notice of withdrawal must contain a clear indication of one attorney signing on behalf of another.

The Commissioner of Patents and Trademarks usually requires that there be at least 30 days between approval of 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). This is so that the applicant will have sufficient time to obtain other representation or take other action. If a period has been set for reply and the period may be extended without a showing of cause pursuant to 37 CFR 1.136(a) by filing a petition for extension of time and fee, the practitioner will not be required to seek such extension of time for withdrawal to be approved. In such a situation, however, withdrawal will not be approved unless at least 30 days would remain between the date of approval and the last date on which such a petition for extension of time and fee could properly be filed.

(emphasis in original).

The request for withdrawal filed on 11 September 2003 clearly indicates that David Cherry is signing on behalf of all attorney/agents associated with Customer Number 23377. There are no outstanding communications from the USPTO with a set period for reply that have not been responded to. A timely response to the 11 August 2003 communication from the USPTO, which did include a period for reply, has been received. Therefore no language in MPEP 402.06 supports denial of the request to withdraw.

CONCLUSION

The "Withdrawal as Attorney" letter filed 11 September 2003 is **APPROVED**. All future correspondence for this case will be mailed to the address indicated on the new power of attorney mentioned above.

The application is being forwarded to the DO/EO/US for treatment of the response filed 15 December 2003.

Boris Milef
PCT Legal Examiner
PCT Legal Administration

Ankur Parekh
Detailee
PCT Legal Administration

Telephone: (703) 308-1315
Facsimile: (703) 308-6459

cc:
Scott A. Waldman
119 Bleddyn Road
Ardmore, PA 19107

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

IP GROUP OF DLA PIPER RUDNICK GRAY CARY US LLP
1650 MARKET ST
SUITE 4900
PHILADELPHIA PA 19103

COPY MAILED

FEB 16 2005

OFFICE OF PETITIONS

Applicant: Salganicoff
Application No. 10/380,720
International Filing Date: September 21, 2001
For: Method and Apparatus for Real-Time Estimation and Control of Physiological Parameters
Pub. No.: US 2004/0034295 A1
Pub. Date: February 19, 2004

This is a decision on the request for corrected patent application publication under 37 CFR 1.221(b), filed on October 20, 2004, for the above-identified application.

The request is DISMISSED.

The instant request is that the application be republished because the patent application publication includes an error in the accuracy of the PCT No. and resulting publication. Applicant states that "[t]his application is a 371 of PCT/US01/29640, as indicated on the enclosed corrected filing receipt."

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records . . . Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.[1]

The request for corrected publication received on October 20, 2004, was not timely filed under 37 CFR 1.221(b), and it has not been considered because it was not timely filed.

The application was correctly published. The instant application requested entry of the National Stage for application PCT/US01/29649, not PCT/US01/29640. (See page 1of transmittal letter.) While applicant may have intended to enter the National Stage for application PCT/US01/29640

[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 is not the application number listed on the National Stage entry papers. The corrected filing receipt generated at applicants request was done in error. The Office electronic records have been corrected and a new corrected filing receipt is enclosed.

For questions about entering the National Stage and filing a petition to revive for an abandoned international application for application PCT/US01/29640, applicant should call the PCT Help Desk at 703-305-3257.

To make a benefit claim, 37 CFR 1.78 in summary requires that the benefit claim to an earlier filed application be contained in the first sentence of the application or be submitted in an amendment or application data sheet within the required time frame within the later of four months from the actual filing date or the date on which the national stage commenced, or sixteen months from the filing date of the prior-filed application.[2] Since, a proper benefit claim to an earlier filed application was not made within the required time period, it was not published on the patent application publication.

In order to make a late benefit claim to the earlier filed applications, applicant must submit a petition to accept an unintentionally delayed claim under 35 U.S.C. 119 and 120 for the benefit of the earlier filed applications. The petition must include 1) the surcharge ($1370) set forth in 37 CFR 1.14(t) and 2) a statement that the entire delay between the date the claim was due under paragraph (a)(5) of this section and the date the claim was filed was unintentional. The petition must also include a proper reference (amendment) to the prior applications in order for the petition to be granted.

Applicant is reminded of his duty to conduct a reasonable inquiry before filing a paper before the Office. See MPEP 410.

Applicants' request for a corrected patent application publication on October 20, 2004, may constitute a "failure to engage in reasonable efforts to conclude processing or examination of the application." See 1.704(c). This determination will be made on or after a mailing of a Notice of Allowance.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application in compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system and questions or request for reconsideration of this decision, should be addressed as follows:

---

[2]See Claiming the Benefit of a Prior-Filed Application under 35 U.S.C. §§ 119(e), 120, 121, and 365(c), 1268 Off. Gaz. Pat. Office Notices 89 (March 18, 2003).

Any 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.

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

Enclosure: Corrected Filing Receipt
Page 1 of Transmittal Letter

04 MAR 2005

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

IP GROUP OF DLA PIPER RUDNICK GRAY CARY US LLP
1650 MARKET ST
SUITE 4900
PHILADELPHIA, PA 19103

In re Application of	:	
SALGANICOFF, Marcos	:	
Application No.: 10/380,720	:	DECISION ON
PCT No.: PCT/EP01/29640	:	
Int. Filing Date: 21 September 2001	:	PETITION
Priority Date: 26 September 2000	:	
Attorney Docket No.: 1293-PCT-US-01	:	UNDER 37 CFR 1.182
For: METHOD AND SYSTEM ...	:	
OBJECT VIEWS	:	

This decision is in response to applicant's "Petition Under 37 C.F.R. §1.182," filed with the United States Patent and Trademark Office on 23 February 2005. The fee will be charged to deposit account no. 50-2719, as authorized.

BACKGROUND

On 18 March 2003, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US), which claimed a priority date of 26 September 2000. The submission included, *inter alia*, a transmittal Letter, an application data sheet, a declaration and the basic national fee. The Transmittal Letter indicated two different international application numbers: PCT/EP01/29649 and PCT/EP01/29640. The declaration indicated the papers were a national stage application of PCT/EP01/29649.

On 30 July 2003, the Office mailed Notification of Acceptance (Form PCT/DO/EO/903) indicating that the application had a date of 18 March 2003 under 35 USC 371 (c)(1), (c)(2) and (c)(4).

On 08 December 2003, applicant submitted a request for a corrected filing receipt, requesting a change to the title and priority data.

On 20 October 2004, applicant requested a corrected pre-grant publication and resubmitted the request for the corrected filing receipt.

On 16 February 2005, the Office mailed a decision refusing applicant's request for a corrected pre-grant publication.

On 23 February 2005, applicant submitted the instant petition under 37 CFR 1.182.

DISCUSSION

Applicant has explained that the papers were directed toward a national stage entry of PCT/EP01/29640. The indications will be corrected in the file and the file will be processed as a national stage entry of PCT/EP01/29640.

However, the declaration was directed to an incorrect application. It does not comply with 37 CFR 1.497(a)-(b). A new declaration in compliance with 37 CFR 1.497(a)-(b) is required.

CONCLUSION

For the reasons listed above, the Petition Under 37 CFR 1.182 is **GRANTED**.

The Notification of Acceptance mailed 30 July 2003 is **VACATED**.

This application is being forwarded to the National Stage Processing Division of the Office of the PCT Operations for continued processing, including corrections indicating that this is a national stage application of PCT/EP01/29640 and mailing of a Notification of Missing Requirements indicating that an oath or declaration and the surcharge for late filing of the oath or declaration are required.

Erin M. Pender

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

07 SEP 2005

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

IP GROUP OF DLA PIPER RUDNICK GRAY CARY US LLP
1650 MARKET ST
SUITE 4900
PHILADELPHIA, PA 19103

In re Application of	:	
SALGANICOFF, Marcos	:	
Application No.: 10/380,720	:	DECISION ON
PCT No.: PCT/US01/29640	:	
Int. Filing Date: 21 September 2001	:	PETITION
Priority Date: 26 September 2000	:	
Attorney Docket No.: 1293-PCT-US-01	:	UNDER 37 CFR 1.182
For: METHOD AND SYSTEM ...	:	
OBJECT VIEWS	:	

This is a corrected decision in response to applicant's "Petition Under 37 C.F.R. §1.182," filed with the United States Patent and Trademark Office on 23 February 2005.

BACKGROUND

On 18 March 2003, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US), which claimed a priority date of 26 September 2000. The submission included, *inter alia*, a transmittal Letter, an application data sheet, a declaration and the basic national fee. The Transmittal Letter indicated two different international application numbers: PCT/EP01/29649 and PCT/EP01/29640. The declaration indicated the papers were a national stage application of PCT/EP01/29649.

On 30 July 2003, the Office mailed Notification of Acceptance (Form PCT/DO/EO/903) indicating that the application had a date of 18 March 2003 under 35 USC 371 (c)(1), (c)(2) and (c)(4).

On 08 December 2003, applicant submitted a request for a corrected filing receipt, requesting a change to the title and priority data.

On 20 October 2004, applicant requested a corrected pre-grant publication and resubmitted the request for the corrected filing receipt.

On 16 February 2005, the Office mailed a decision refusing applicant's request for a corrected pre-grant publication.

On 23 February 2005, applicant submitted the instant petition under 37 CFR 1.182.

On 04 March 2005, the Office mailed Decision On Petition Under 37 CFR 1.182.

DISCUSSION

The prior decision indicated that Applicant explained that the papers were directed toward a national stage entry of PCT/EP01/29640. The decision should have read PCT/US01/29640.

The declaration was directed to an incorrect application. It does not comply with 37 CFR 1.497(a)-(b). A new declaration in compliance with 37 CFR 1.497(a)-(b) is required.

CONCLUSION

For the reasons listed above, the Petition Under 37 CFR 1.182 is **GRANTED**.

The Notification of Acceptance mailed 30 July 2003 is **VACATED**.

This application is being forwarded to the National Stage Processing Division of the Office of the PCT Operations for continued processing, including corrections indicating that this is a national stage application of PCT/US01/29640 and mailing of a Notification of Missing Requirements indicating that an oath or declaration and the surcharge for late filing of the oath or declaration are required.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

1 5 MAY 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

IP GROUP OF DLA PIPOER RUDNICK GRAY CARY US LLP
1650 MARKET STREET
SUITE 4900
PHILADELPHIA PA 19103

In re Application of	:	
MARCOS SALGANICOFF	:	
Application No.: 10/380,720	:	DECISION ON
PCT No.: PCT/US01/29640	:	
International Filing Date: 21 September 2001	:	PETITION
Priority Date: 26 September 2000	:	
Attorney's Docket No.: 1293-PCT-US-01	:	UNDER 37 C.F.R. 1.181
For: Method and System for Generation, Storage and	:	
Distribution of Omni-Directional Object Views	:	

This decision is in response to applicant's "Petition Under 37 C.F.R. 1.182" filed with the United States Patent and Trademark Office on 20 December 2006 requesting a corrected filing receipt in the above-identified application, which has been treated as a petition under 37 CFR 1.181. The petition under 37 CFR 1.181 is **GRANTED.**

BACKGROUND

On 18 March 2003 applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US), which claimed a priority date of 26 September 2000. The submission included, *inter alia*, a transmittal letter, an application data sheet a declaration and the basic national fee. The Transmittal Letter indicated two different international application numbers: PCT/US01/29649 and PCT/US01/29640. The Declaration indicated the papers were a national stage application of PCT/US01/29649.

On 30 July 2003, the Office mailed Notification of Acceptance (PCT/DO/EO/903) indicating that the application has a date of 18 March 2003 under 35 USC 371 (c)(1), (c)(2) and (c)(4).

On 08 December 2003, applicant submitted a request for a corrected filing receipt, requesting a change of title and priority data.

On 20 October 2004, applicant requested a corrected pre-grant publication and resubmitted the request for the corrected filing receipt.

On 16 February 2005, the Office mailed a decision refusing applicant's request for a corrected pre-grant publication.

On 23 February 2005, applicant submitted a petition under 37 C.F.R. 1.182 requesting a corrected filing receipt showing a change of title and corrected priority data.

On 04 March 2005, the Office mailed a decision granting applicant's request for a corrected filing receipt and vacating the Notification of Acceptance mailed 30 July 2003.

On 02 September 2005, the Office mailed a supplemental Notification of Acceptance (PCT/DO/EO/903) indicating that the application is based upon international application number PCT/US01/29640 and has a date of 18 March 2003 under 35 USC 371 (c)(1), (c)(2) and (c)(4).

On 07 September 2005, the Office mailed a corrected decision granting applicant's request for a corrected filing receipt and vacating the Notification of Acceptance mailed 30 July 2003. The corrected decision indicated that in the decision mailed 04 March 2005, "PCT/EP01/29640" should have read "PCT/US01/29640." The decision also indicated that a new declaration in compliance with 37 CFR 1.497 (a)-(b) is required because the declaration filed 18 March 2003 is directed to an incorrect application (PCT/US01/29649).

On 20 December 2006, applicant submitted the present petition under 37 C.F.R. 1.182 requesting a corrected filing receipt showing a change of title and corrected priority data.

DISCUSSION

A review of the file for application number 10/380,720, specifically the Application Data Sheet filed 18 March 2003, reveals that application number 10/380,720 is the national stage application of international application PCT/US01/29640 filed 21 September 2001 having an earliest priority date of 26 September 2000 and the title "Method and System for Generation, Storage and Distribution of Omni-Directional Object Views."

CONCLUSION

For the reasons stated above, the petition under 37 C.F.R. 1.181 is **GRANTED**.

This application is being forwarded to the National Stage Processing Division of the Office of the PCT Operations for continued processing, including corrections indicating that this is a national stage application of PCT/US01/29640 filed 21 September 2001 having a priority date of 26 September 2000 and titled "Method and System for Generation, Storage and Distribution of Omni-Directional Object Views."

A corrected Notice of Missing Parts (PCT/DO/EO/905) will be mailed indicating that a proper oath or declaration must be filed.

Leonard Smith
PCT Legal Examiner
Office of PCT Legal Administration
Telephone: (571) 272-3297
Facsimile: (571) 273-0459

Stefan Staicovici
PCT Legal Examiner
Office of PCT Legal Administration
Telephone: (571) 272-1208

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

COPY MAILED

OCT 29 2007

OFFICE OF PETITIONS

IP GROUP OF DLA PIPER US LLP
ONE LIBERTY PLACE
1650 MARKET ST, SUITE 4900
PHILADELPHIA, PA 19103

In re Application of	:	
Marcos Salganicoff	:	
Application No. 10/380,720	:	DECISION ON PETITION
Filed: March 18, 2003	:	TO WITHDRAW
Attorney Docket No. 1293-PCT-US-01	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed May 29, 2007.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SYNNESTVEDT & LECHNER, LLP
1101 MARKET STREET
SUITE 2600
PHILADELPHIA, PA 19107-2950

COPY MAILED

JUN 19 2008

OFFICE OF PETITIONS

In re Application of	:	
Marcos Salganicoff	:	
Application No. 10/380,720	:	DECISION ON PETITION
Filed: March 18, 2003	:	TO WITHDRAW
Attorney Docket No. 1293-PCT-US-01	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed November 12, 2007.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: MARCOS SALGANICOFF
780 NORTH 26TH STREET
PHILADELPHIA, PA 19130

1 1 SEP 2008

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

FOX ROTHSCHILD LLP
1101 MARKET STREET
SUITE 2600
PHILADELPHIA PA 19107-2950

In re Application of	:	
SALGANICOFF, Marcos	:	
Application No.: 10/380,720	:	DECISION ON
PCT No.: PCT/US2001/029640	:	
Int. Filing Date: 21 September 2001	:	PETITIONS
Priority Date: 26 September 2000	:	
Attorney Docket No.: 1293-PCT-US-01	:	UNDER 37 CFR 1.181 and 1.137(b)
For: METHOD AND SYSTEM ...	:	
OBJECT VIEWS	:	

This is a petition decision in response to applicant's "Petition Under 37 C.F.R. §1.181," filed with the United States Patent and Trademark Office on 01 May 2008.

BACKGROUND

On 05 October 2007, the Office mailed Notice of Allowance and Fee(s) Due (Form PTOL-85). It stated "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.

On 12 November 2007, attorneys of record in the application attempted to withdraw from representation.

On 10 December 2007, the Office sent Notice to File Corrected Application Papers Notice of Allowance Mailed.

On 11 February 2008, applicants filed a reply to the Notice to File Corrected Application Papers and paid the issue fee.

On 05 March 2008, the Office mailed Notice of Abandonment (Form PTO-ABND) indicating that the application went as the issue fee was received after the expiration of the statutory period for payment of the issue fee set in the Notice of Allowance.

On 01 May 2008, applicants filed a declaration of the inventor and this petition under 1.181 with a conditional petition to revive under 37 CFR 1.137(b).

DISCUSSION

PETITION UNDER 37 CFR 1.181

This application was properly abandoned for failure to timely respond to the Notice of Allowance. Applicant did not challenge issuance of the Notice of Allowance during the statutory period for replying to that notice. Failure to reply to the Notice was proper grounds for abandonment. A new

Notice of Allowance will not issue. Applicant's conditional petition to revive an unintentionally abandoned application will be processed.

A corrected filing receipt will be generated after the National Stage Processing Branch processes the declaration of the inventor supplied by applicant on 01 May 2008 and issues a new Notification of Acceptance (Form PCT/DO/EO/903). The priority data requested by applicant are the priority data listed in the record. The fee for late filing of the search fee, examination fee or oath or declaration in compliance with 37 CFR 1.497(a)-(b) will be charged to deposit account no. 19-5425, as authorized.

The Office cannot dissociate publication 20040034295 from this application. As stated in the decision on petition mailed 16 February 2005, the publication was the one requested by applicant. Although it was requested in error, the request for a corrected publication was not timely filed.

The documents in the electronic file wrapper related to application PCT/US01/29649, as indicated by applicant, have been closed.

PETITION UNDER 37 CFR 1.137(b)

Applicant states that the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional, as required by 37 CFR 1.137(b)(3). The appropriate reply in the form of the issue fee has been paid. The petition fee will be charged to deposit account no. 19-5425, as authorized. A terminal disclaimer is not required as the application was filed on or after 08 June 1995. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

CONCLUSION

For the reasons listed above, the Petition Under 37 CFR 1.181 is **GRANTED in part** and **DISMISSED in part**. The petition under 37 CFR 1.137(b) is **GRANTED**.

This application is being forwarded to the National Stage Processing Division of the Office of the Patent Application Processing for continued processing, including issuance of a corrected Notification of Acceptance and filing receipt. The application has a 35 USC 371(c)(1), (c)(2) and (c)(4) date of 01 May 2008.

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

19 AUG 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Diana Hamlet-Cox
Incyte Genomics, Inc.
3160 Porter Drive
Palo Alto, CA 94304

In re Application of	:	
LEE, et al.	:	
U.S. Application No.: 10/380,727	:	DECISION ON PETITION
PCT No.: PCT/US01/28938	:	
Int. Filing Date: 14 September 2001	:	UNDER 37 CFR 1.182
Priority Date: 15 September 2000	:	
Attorney's Docket No.: PI-0217 USN	:	
For: TRANSPORTERS AND ION CHANNELS	:	

This decision is in response to applicant's "Communication re Inventor Name Change" filed 14 March 2003 in the United States Patent and Trademark Office (USPTO). The communication is being treated as a petition under 37 CFR 1.182.

BACKGROUND

On 14 September 2001, applicant filed international application PCT/US01/28938, which claimed priority of an earlier application filed 15 September 2000. A Demand for international preliminary examination, in which the United States was elected, was filed prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 15 March 2003.

On 14 March 2003, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1); an executed combined declaration and power of attorney of the inventors; an assignment document for recording; a First Preliminary amendment; a Sequence Listing and the present petition accompanied by a statement signed by Narinder Chawla.

08/27/2003 SWAJARRO 00000005 090108 10380727
01 FC:1460 130.00 DA

DISCUSSION

Communication with the International Bureau (IB) finds that a change under PCT Rule 92bis regarding inventor Narinder Chawla nee Walia has not been recorded by the IB. As such, the present communication is being treated as a petition under 37 CFR 1.182 to change the name of the inventor in the National stage. As authorized, the $130.00 petition fee will be charged to Deposit Account No.: 09-0108.

The present petition is accompanied by a declaration setting forth the procedure whereby the change of name was effected; specifically the inventor's name has changed due to marriage.

The inventor's statement is executed by Mrs. Narinder Chawla using both her current and maiden names. As such, it is appropriate to grant applicant's petition under 37 CFR 1.182 at this time.

CONCLUSION

The petition under 37 CFR 1.182 to change the inventor's name from Narinder Walia to Narinder Chawla is **GRANTED**.

The application has an international filing date of 14 September 2001 under 35 U.S.C. 363 and a date of **14 March 2003** under 35 U.S.C. 371(c).

This application is being forwarded to the National Stage Processing Branch of the International Division for continued national stage processing.

Richard Cole
Legal Examiner
Office of PCT Legal Administration

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (703) 305-0130
Fax: (703) 308-6459

29 MAR 2005

#8

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Judson K. Champlin
WESTMAN CHAMPLIN & KELLY
Suite 1600 - International Centre
900 Second Avenue South
Minneapolis, Minnesota 55402-3319

In re Application of:	:	
XU, Anlong, et al.	:	DECISION ON PETITION TO
U.S. Application No.: 10/380,734	:	REVIVE ABANDONED
PCT No.: PCT/CN01/01399	:	APPLICATION UNDER 37
International Filing Date: 14 September 2001	:	CFR 1.137(b)
Priority Date: 18 September 2000	:	
Attorney's Docket No.: Z09.12-0001	:	
For: *LAPEMIS HARDWICKI* SHORT CHAIN	:	
NEUROTOXIN AND GENE ENCODING IT	:	

The petition to revive under 37 CFR 1.137(b) filed 07 February 2005 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

Applicants have now submitted the "required reply," that is, the required sequence listing materials (including CRF), and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application is granted as to the national stage in the United States of America.

This application is being returned to the National Stage Processing Division of the Office of PCT Operations for further processing in accordance with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 01 August 2003.

Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

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

SMITH LAW OFFICE
440 SCIENCE DR.
SUITE 302
MADISON, WI 53711

COPY MAILED

MAY 0 2 2005

OFFICE OF PETITIONS

In re Application of	:	
Ebeling et al.	:	
Application No. 10/380,736	:	ON PETITION
Filed: July 22, 2003	:	
Attorney Docket No. 10016.002	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed April 21, 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 September 21, 2004. A three-month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, this application became abandoned on March 22, 2004.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

This matter is being referred to Technology Center 3600 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

OCT 14 2005

Martin J. Cosenza
FOLEY & LARDNER LLP
3000 k Street, N.W. Suite 500
P.O. Box 25696
Washington, DC 20007-8696

In re Application of:	:	
BOUVIER et. al.	:	DECISION ON REQUEST TO WITHDRAW
Serial No.: 10/380/756	:	FROM RECORD
Filed: April 03, 2003	:	
Attorney Docket No.: **065691/0318**	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed May 13, 2005.

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 Meyertons, Hood, Kivlin, Kowert & Goetzel, P.C. was filed on June 13, 2005. 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 (571) 272-1594.

Clayton E. LaBalle

Clayton E. LaBalle, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: Meyertons, Hood, Kivlin, Kowert & Goetzel, P.C.
P.O. Box 398
Austin TX 78767-0398

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

MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

COPY MAILED

FEB 11 2008

OFFICE OF PETITIONS

In re Application of	:	
Bruno Fiter, et al.	:	
Application No. 10/380,771	:	DECISION ON PETITION
Filed: March 18, 2003	:	TO WITHDRAW
Attorney Docket No. 449122052800	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 31, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Morrison & Foerster, LLP has been revoked by the assignee of the patent application on October 22, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to undersigned at 571-272- 1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: BELL, BOYD & LLOYD, LLP
P.O. BOX 1135
CHICAGO IL 60690

07 JAN 2005

#5

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Seed Intellectual Property Law Group PLLC
701 5th Avenue, Suite 6300
Seattle, WA 98104-7092

In re Application of	:	
Wobben	:	
Application No.: 10/380,786	:	
PCT No.: PCT/EP01/10191	:	
Int. Filing Date: 05 September 2001	:	DECISION
Priority Date: 07 September 2000	:	
Attorney Docket No.: 970054.435USPC	:	
For: Island Network And Method For	:	
Operating An Island Network	:	

This is a decision on the "Petition To Revive" filed on 29 October 2004.

BACKGROUND

This international application was filed on 05 September 2001 and claimed a priority date of 07 September 2000. The International Bureau transmitted a copy of the published international application to the USPTO on 14 March 2002. Consequently, the thirty month period for payment of the basic national fee in the United States expired as of midnight on 07 March 2003. On 07 March 2003, applicants filed *inter alia* the basic national fee.

On 05 August 2003, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring the submission of an executed oath or declaration of the inventors and $436.00 in additional claims fees.

On 05 October 2004, a Notification of Abandonment (Form PCT/DO/EO/909) was mailed to applicants, indicating that this application had become abandoned for failure to timely reply to the Form PCT/DO/EO/905 mailed on 05 August 2003.

DISCUSSION

Applicant "requests that the Notice of Abandonment be withdrawn" because counsel allegedly filed a response to the Notification of Missing Requirements on 23 September 2003. Inspection of the copy of said response which accompanies the instant petition reveals that it is directed to application number 10/380,785, rather than to the instant application number. Counsel explains this discrepancy by indicating that the response was directed to the application number which appeared on a return postcard receipt which accompanied, *inter alia,* the basic national fee, and which was stamped as "Rec'd PCT/PTO 07 MAR 2003." A copy of said postcard receipt accompanies the instant petition. The original correspondence allegedly filed on 23 September 2003 was not found after inspection of the application files

for application numbers 10/380,786 and 10/380,785.

The instant petition is also accompanied by copies of a Transmittal Letter, a "Response To Notification Of Missing Requirements," an "Application Data Sheet," an executed declaration of the inventor, a power of attorney, and a "Supplemental Information Disclosure Statement," and by a copy of a return postcard receipt itemizing these papers and stamped as "Rec'd PCT/PTO 23 SEP 2003." MPEP 503 states in part that "A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO." Pursuant to that practice, the copies of the papers enumerated above are being accepted as copies of the papers originally filed on 23 September 2003. Moreover, in view of the specific factual situation presented by the instant case, it would be appropriate to treat the papers filed on 23 September 2003 as a response directed toward the Notification of Missing Requirements mailed in instant application, number 10/380,786, on 05 August 2003. As such, it also would be appropriate to **VACATE** the Notification of Abandonment mailed on 05 October 2004.

It is noted that the English translation of the international application, filed on 07 March 2003, is defective because it includes a "Translator's Note" on page 3, because no title is present on the first page of the description, and because extraneous text is present on the last page ("//insert figures//" and "//insert English search report//").

DECISION

The petition is **GRANTED**.

This application is being forwarded to the National Stage Processing Branch for further processing, including the preparation and mailing of a new Notification of Missing Requirements (Form PCT/DO/EO/905) requiring the submission of a new English translation and a processing fee under 37 CFR 1.492(f).

Boris Milef
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (571) 272-3283
Fax: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
PO Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

25 SEP 2003

Sughrue Mion, PLLC
2100 Pennsylvania Avenue, N.W.
Washington, DC 20037-3213

In re Application of Kubo et al. US Application No.: 10/380,830 PCT Application No.: PCT/JP02/12148 International Filing Date: 21 November 2002 Priority Date: 21 November 2001 Attorney Docket No.: Q74474 For: RESIN COMPOSITION AND PROCESS FOR PRODUCING MOLDING	DECISION ON REQUEST UNDER 37 CFR 1.42

This decision concerns the papers filed on 25 August 2003, indicating that 1 of the inventors named in the above-referenced application is deceased. This submission is being properly treated as a request for status under 37 CFR 1.42, and is **GRANTED** as follows.

BACKGROUND

On 21 November 2002, Applicants filed international application PCT/JP02/12148 which claimed priority of an earlier application filed on 21 November 2001. A copy of the international application, in Japanese, was communicated from the International Bureau to the USPTO on 30 May 2003. The period for paying the basic national fee is 30 months and ends at midnight on 21 May 2004.

On 19 March 2003, Applicants filed a transmittal letter for entry into the national stage in the United States under 35 U.S.C. 371, along with, *inter alia*, the $900 basic national fee required by 35 U.S.C. 371(c)(1) and 37 CFR 1.492(a)(5), an English translation of the international application, a sheet of drawing, and a preliminary amendment, but not an oath or declaration.

On 15 August 2003, a "Notification of Missing Requirements under 37 CFR 371 in the United States Designated/Elected Office (DO/EO/US)" (Form PCT/DO/EO/905) was mailed, stating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) was missing, and requesting submission of such an oath or declaration within the later of 2 months from the mailing date of the notification, or, 32 months from the 21 November 2001 priority date.

The submission, accompanied by a declaration signed by the deceased inventor's legal representative, in essence requests that the legal representative be allowed to file this application on behalf of the deceased inventor.

DISCUSSION

When an inventor for the claimed invention in a patent application is deceased, the legal representative (executor, administrator, etc.) or one who has reason to believe that he/she will be appointed legal representative may make the necessary oath or declaration. 35 U.S.C. 117; 37 CFR 1.42; MPEP 409.01(a) (Rev. 1, Feb. 2003).

In so making the oath or declaration on behalf of the deceased inventor, the legal representative must, in the oath or declaration:

(1) Identify himself/herself as the legal representative of the deceased inventor; 37 CFR 1.497(b)(2); MPEP 605.04(a) (Rev.1 , Feb. 2003);

(2) Provide his/her own citizenship, mailing address and residence; *Id.*; and

(3) Include the citizenship of the deceased inventor. 37 CFR 1.497(a)(3).

The instant request encloses 3 sets of declaration, each referring to the instant application and identifying the entire inventive entity, as well as the $130 surcharge for filing a proper oath or declaration after commencement of the national stage:

-One declaration is signed by 1 of the 5 named inventors;

-Another declaration is signed by 3 other inventors;

-The third declaration is signed by the legal representative of the remaining inventor who is deceased, in the deceased inventor's signature block. This declaration meets the requirements (1)-(3) above.

CONCLUSION

In view of the above, the request is **GRANTED.**

The application has an international filing date of 21 November 2002, and will be given a date of 25 August 2003 under 35 U.S.C. 371(c).

The application is being returned to DO/EO/US for processing in accordance with this decision, including the mailing of a Notification of Acceptance (Form PCT/DO/EO/903).

Boris Milef
PCT Legal Examiner
PCT Legal Office

RC Tang
Petitions Attorney
PCT Legal Office
Telephone: 703-308-1315
Facsimile: 703-308-6459

23 SEP 2005

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

22428
FOLEY & LARDNER
Suite 500
3000 K Street NW
Washington, DC 20007

In re Application of	:	
SINGH, Bikram	:	
U.S. Application No.: 10/380,835	:	
PCT No.: PCT/IB02/01208	:	
Int. Filing Date: 25 March 2002	:	**DECISION**
Priority Date: None	:	
Attorney's Docket No.: 056859-0170	:	
For: A SIMPLE PROCESS OBTAINING	:	
ALPHA-AESCIN FROM INDIAN HORSE . . .	:	

This is a decision on the "Petition to Withdraw Holding of Abandonment" filed on 15 August 2005. No fee is required.

BACKGROUND

On 19 March 2003, applicant filed papers for express entry into the national stage in the United States of PCT/IB02/01208 filed 25 March 2002. These papers were accompanied by, *inter alia*, $900.00 for the Basic National fee and a copy of the international application.

On 02 June 2003, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Insufficient Basic National Fee Required and/or Missing Copy of International Application Under 35 U.S.C. 371 and 37 CFR 1.495 (Form PCT/DO/EO/912) indicating that several items were required.

On 21 November 2003, applicant purportedly filed a response which included an executed declaration, a copy of the international application and a $130.00 surcharge fee. However, these documents were not located in the application file.

On 13 June 2005, a Notification of Abandonment (Form PCT/DO/EO/909) was mailed because no reply to the Form PCT/DO/EO/905 mailed 02 June 2003 was received within the time period set therein.

On 30 October 2003, applicants submitted the petition to withdraw the holding of abandonment which was accompanied by, *inter alia*, a copy of the documents filed 21 November 2003 and a postcard receipt for those documents.

DISCUSSION

Withdraw Holding of Abandonment

To begin entry into the national stage, applicant is required to comply with 37 CFR 1.495(b) within 30 months from the priority date. Thus, applicant must pay the basic national fee on or before 30 months from the priority date and be sure that a copy of the international application has been received by the U.S. Designated or Elected Office prior to expiration of 30 months from the priority date. *See* MPEP § 1893.01.

In this case, applicant requested express entry[1] into the national stage on 19 March 2003 and provided the Basic National fee of $900.00 and a copy of the international application. However, an oath or declaration[2] in compliance with 37 CFR 1.497(a) and (b) was not provided with the initial submission.

Response Filed 21 November 2003

Applicant claims that a response was filed on 21 November 2003 which included a declaration, a copy of the international application as filed and a $130.00 surcharge fee. A check of USPTO financial records show that the $130.00 surcharge fee was received and processed. However, the application file does not contain papers received 21 November 2003.

MPEP § 503 lists procedures to ensure receipt of any paper filed in the USPTO. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

In this case, applicant provided a copy of the date-stamped postcard receipt for the documents submitted 21 November 2003. The postcard receipt records that a "Transmittal Letter . . . ; Declaration and Power of Attorney (3 pgs); Copy of International Application (19 pgs.)" were received in the USPTO. The postcard receipt is stamped "OIPE NOV 21 2003" across its face. The U.S. application number and attorney docket number were listed on the postcard receipt. Applicant also provided a copy of the documents originally filed 21 November 2003 with the subject petition.

---

[1] 35 U.S.C. 371 (f). At the express request of the applicant, the national stage of processing may be commenced at any time at which the application is in order for such purpose and the applicable requirements of subsection (c) of this section have been complied with.

[2] 35 USC 371 (c) The applicant shall file in the Patent and Trademark Office —
(4) an oath or declaration of the inventor (or other person authorized under chapter 11 of this title) complying with the requirements of section 115 of this title and with regulations prescribed for oaths or declarations of applicants;

Accordingly, applicants have provided *prima facie* evidence that a response which included a copy of the international application and a declaration were originally received by the USPTO on 21 November 2003.

DECISION

Applicants' petition to withdraw the holding of abandonment is **GRANTED**.

The Form PCT/DO/EO/909 mailed 13 June 2005 is erroneous and is hereby **VACATED**.

The declaration originally filed 21 November 2003 is in compliance with 37 CFR 1.497(a) and (b).

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 25 March 2002, under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 21 November 2003.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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

COPY MAILED

NOV 29 2004

OFFICE OF PETITIONS

Applicant: Nister
Appl. No.: 10/380,838
Filed: March 19, 2003
Title: SCENE RECONSTRUCTION AND CAMERA CALIBRATION WITH ROBUST USE OF CHEIRALITY
Attorney Docket No.: 4147-24
Pub. No.: US 2004/0096097 A1
Pub. Date: May 20, 2004

This is in response to the request for correction of patent application publication under 37 CFR 1.221(b), which was filed on July 19, 2004.

The request is DISMISSED.

The instant request is that the patent application publication be republished because the preliminary amendment was not included..

According to 37 CFR 1.215(a), which says the following, in part:

> (a) ... The patent application publication will not include any amendments, including preliminary amendments, unless applicant supplies a copy of the application containing the amendment pursuant to paragraph (c) of this section.

§ 1.215(c) says the following:

> (c) At applicant's option, the patent application publication will be based upon the copy of the application (specification, drawings, and oath or declaration) as amended during examination, provided that applicant supplies such a copy in compliance with the Office electronic filing system requirements within one month of the actual filing date of the application or fourteen months of the earliest filing date for which is sought under title 35, United States Code, whichever is later.

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records." 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

[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).

mistake in the publication made by the Office:

The applicant did not supply a copy of the application in compliance with § 1.215(c). The patent application publication does not include a material mistake in the publication by the Office. The application was published as originally filed by application. The Office is not required to include preliminary amendments in the patent application publication.[2]

Applicant is reminded of her duty to conduct a reasonable inquiry before filing a paper before the Office. See MPEP 410.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application in compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system and questions or request for reconsideration of this decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

The application will be examined in due course.

Inquiries relating to this matter may be directed to Mark Polutta at (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

---

[2]See Patent Application Publications May Now Include Amendments, 1281 Off. Gaz. Pat. Office Notices 53 (April 13, 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

BAKER & BOTTS L.L.P.
30 ROCKEFELLER PLAZA
44TH FLOOR
NEW YORK NY 10112-4498

COPY MAILED
DEC 2 0 2006
OFFICE OF PETITIONS

In re Application of

Astghik Tamanyan et al.
Application No. 10/380,843
Filed: August 1, 2003
Attorney Docket No. A35717 PCT USA

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 6, 2006.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, ***file is being transferred to another firm for prosecution***, do not meet any the conditions set forth in 37 CFR 10.40.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272- 2991.

T. Williams
Terri Williams
Petitions Examiner
Office of Petitions

cc: **Mr. Brian Batzli**
Merchant & Gould
3200 IDS Center
80 South Eighth Street
Minneapolis, MN 55402-2215

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

COPY MAILED

DEC 03 2009

OFFICE OF PETITIONS

FOLEY & LARDNER LLP
777 EAST WISCONSIN AVENUE
MILWAUKEE WI 53202-5306

In re Application of	:	
Campbell, et al.	:	
Application No. 10/380,852	:	ON APPLICATION FOR
Filed: March 17, 2003	:	PATENT TERM ADJUSTMENT
Atty Docket No. 026032-4221	:	

This is in response to the REQUEST FOR RECONSIDERATION OF THE PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705 filed September 4, 2009.[1] The request is properly treated under 37 CFR 1.705(b). Applicants submit that the correct patent term adjustment to be indicated on the patent is two thousand, one hundred twenty-two (2,122) days, not seven hundred nineteen (719) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As

[1] At the request of Petitions Attorney, Kenya A. McLaughlin, applicants filed on November 16, 2009, a copy of page 3 of the "Request for Reconsideration of the Patent Term Adjustment Under 37 C.F.R. § 1.705" because page 3 was not found with the petition papers filed September 4, 2009.

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, applicants are advised that applicants 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].

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

---

[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.

after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to Kenya A. McLaughlin, Petitions Attorney, at (571) 272-3222.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

FOLEY & LARDNER LLP
777 EAST WISCONSIN AVENUE
MILWAUKEE, WI 53202-5306

Mail Date: 04/21/2010

Applicant	: Douglas C. Campbell	: DECISION ON REQUEST FOR
Patent Number	: 7636658	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/380,852	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/17/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1954** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

OCT 12 2006

SWIDLER BERLIN LLP
3000 K Street, NW
Box IP
Washington, DC 20007

In re Application of:
VALDERMARSSON *et al.*
Serial No.: 10/380,857
Filed: March 18, 2003
Attorney Docket No.: **19387.9138**

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the petition under 37 C.F.R. § 1.181, filed October 27, 2005, to withdraw the holding of abandonment of the above-identified. No petition fee is required.

The petition to withdraw the holding of abandonment is DENIED.

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 of Allowance) mailed on April 13, 2005. A Notice of Abandonment was mailed on September 20, 2005.

Petitioner asserts that the Notice of Allowance mailed April 13, 2005, was not received. It is further asserted that a Power of Attorney was filed on August 31, 2004, which requested that the all future correspondence should sent to: Edward A. Pennington, Suite 300, 3000 K Street, N.W., Washington, DC 20007-5116. In support of the petition, a statement from the practitioner stating that the Office action 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 action was not received, a copy of the docket record where the non-received Office action would have been entered had it been received and docketed for the above address and a copy of the papers filed August 31, 2004, were included.

A review of the written record indicates no irregularity in the mailing of the Notice of Allowance, and in the absence of any irregularity there is a strong presumption that the Notice of Allowance was properly mailed to the address of record. This presumption may be overcome by a showing that the Notice of Allowance was not in fact received at the correspondence address of record. The showing required to establish the failure to receive an Office action must include a statement from the practitioner stating that the Office action 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 action was not received. A copy of the docket record where the non-received Office action

would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See "Withdrawing the Holding of Abandonment When Office Actions Are Not Received" 1156 Official Gazette 53 (November 16, 1993) and M.P.E.P. § 711.03(c).

A further review reveals a discrepancy between the evidence provided in support of the petition and the Official record in the USPTO. The copy of the documents provided with the petition includes 7 pages, where as the total number of pages of the original papers entered into the file on August 31, 2004 is only 6. The paper titled "Revocation and Power of Attorney" is not included with the papers entered on August 31, 2004. Further, the cover sheet accompanying the papers entered on August 31, 2004, indicates that there are only 6 pages. This discrepancy makes it unclear which, and how many, pages were included with the papers filed August 31, 2004.

According to the written record before the Office, the Notice of Allowance was mailed to the correct correspondence address of record, at the time of mailing.

For the above-stated reasons, the application was properly held abandoned and the petition to withdraw the holding of abandonment cannot be granted. The petitioner may wish to consider filing a petition to the Commissioner under 37 CFR § 1.137 requesting that the application be revived. See MPEP § 711.03(c) for treatment of petitions to revive abandoned applications.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision.

Inquiries regarding this decision should be directed to Clayton E. LaBalle at (571) 272-1594.

Richard K. Seidel, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

Cc: Edward A. Pennington
Suite 300
3000 K Street, N.W.
Washington DC 20007-5116

DECISION ON PETITION ROUTING SLIP

Application No.: 10380857

Art Unit: ~~2821~~ 2837

For Director's Secretary:

☑ **Granted** ☐ **Denied** ☐ **Dismissed**

- ☑ Decision to be reviewed and signed by Director
- ☐ Mail Decision & enter decision in Petition Database
- ☐ Forward a copy of the mailed decision to IFW for scanning
- ☐ Enter Paper Nos ____ and the decision in PALM
- ☐ Other

For TECH Support Staff:

- ☐ Process and enter Paper Nos. ____
- ☐ Charge ____ fee to D.A. No ____
- ☑ Other

Please remail PTO 37 and 85, and reset the period for response.

- ☐ Forward file to ____

SPRE No. 1:	SPRE No. 2:	SPRE No. 3:	SPRE No. 4:
Hien Phan SPRE Jeff-8D55 (571) 272-1606	Jose Dees SPRE Jeff-8D59 (571)272-1569	Clayton E. LaBalle SPRE Jeff-8D51 (571) 272-1594	Ed Westin SPRE Jeff-8D65 (571)272-1638

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.
10/380,857	07/02/2003	Stefan Valdermarsson	19387.9138	3862

7590 01/18/2008

Edward A. Pennington
Suite 300
3000 K Street, N.W.
Washington, DC 20007-5116

EXAMINER
IP, SHIK LUEN PAUL

ART UNIT	PAPER NUMBER
2837	

MAIL DATE	DELIVERY MODE
01/18/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Eric J. Franklin
VENABLE LLP
575 7th Street, NW
Washington, DC 20004

JUL 18 2008

In re Application of:
VALDERMARSSON *et al.*
Serial No.: 10/380,857
Filed: March 18, 2003
Attorney Docket No.: **19387.9138**

DECISION ON RENEWED PETITION

This is a decision on the renewed petition filed on December 12, 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 and Issue Fee Due (Notice) mailed April 13, 2005.

The renewed petition now includes a showing of non-receipt which includes copies of the docket records where the Notice should have been entered had it been received..

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.

Janice Falcone

Janice Falcone, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

WENDEROTH, LIND & PONACK, L.L.P.
2033 K STREET N. W.
SUITE 800
WASHINGTON DC 20006-1021

COPY MAILED

SEP 12 2005

OFFICE OF PETITIONS

In re Application of	:	
Yoshiie et al	:	
Application Number: 10/380,859	:	DECISION ON PETITION
Patent: 6,889,809	:	
Attorney Docket Number: 2003-0360A	:	
Filing Date: March 18, 2003	:	
Issue Date: May 10, 2005	:	

This is a decision on the petition to correct the name of the assignee under 37 CFR 1.183 filed on July 22, 2005. The petition is properly treated 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 petition is **Granted**.

This application is being forwarded to the Certificate of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

---

[1]See 69 Fed. Reg. 29865 (May 26, 2004).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : October 5, 2006

TO SPE OF : ART UNIT 1624

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/380865 Patent No.: 6,800,590 B2

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Elisha Evans
Certificates of Correction Branch

703-308-9390 ext. 110

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- [X] **Approved** — All changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: _____

JAMES O. WILSON
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

SPE

1624
Art Unit

27 APR 2004

UNITED STATES PATENT and TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Douglas S. Johnson
133 Richmond Street West
Toronto, Ontario
Canada M5H 2L7

In re Application of	:
Sakno et al.	:
Application No.: 10/380,876	: DECISION ON
PCT No.: PCT/CA01/01318	:
Int. Filing Date: 19 September 2001	: PETITION
Priority Date: 19 September 2000	:
Attorney's Docket No.: SJ-100975US	: UNDER 37 CFR 1.47(a)
For: BLOCK FOR FIRE AND SMOKE ALONG A	:
BARRIER PENETRATING MEMBER	:

This is a decision in response to the petition under 37 CFR §1.47(a) filed on 10 October 2003. The $130 petition fee has been paid.

BACKGROUND

On 19 September 2001, applicants filed international application PCT/CA01/01318 that claimed priority of an earlier Canadian application filed 19 September 2000. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 28 March 2002. The thirty-month period for paying the basic national fee for the national stage in the United States expired at midnight on 19 March 2003.

On 19 March 2003, applicants filed a letter for entry into the national stage in the United States which was accompanied by, *inter alia*, a copy of the international application and the basic national fee of $890 as required by 35 U.S.C. 371(c). These papers were assigned application number 10/380,876.

On 14 August 2003, the United States Patent and Trademark Office in its capacity as an Elected Office mailed the "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) indicating that applicant was required to file an oath/declaration. The notification set a two-month time period in which to respond.

In order to satisfy the requirements of 35 U.S.C. 371(c)(4), on 10 October 2003, applicants filed the following papers:

1) a Response to Notification of Missing Requirements under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US) including a Petition under 37 CFR 1.47(a);

2) the required petition fee;

3) signed statements by Doreen Hardy-Smith and Frank Farfan;

4) a declaration signed by inventor Walter Milani on behalf of inventor Michael Peter Sakno.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing inventor. The petition is missing item (2) above.

With respect to item (1), applicant included the $130 petition fee.

With respect to item (2), Ms Hardy-Smith indicated that inventor Sakno confirmed that he received a complete copy of the application papers on 07 October 2003. Further, inventor Sakno has told Mr. Farfan that he is unwilling to sign the declaration without compensation in order to secure patent counsel. It is clear that inventor Sakno is refusing to sign the declaration.

With respect to item (3), applicant provided inventor Sakno's last known address. With respect to item (4), applicant provided a declaration signed by inventor Milani.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.47(a) is **GRANTED**.

The Application Division and the International Division are authorized to accept the application as a 37 CFR 1.47(a) application and to mail a filing receipt. The application will be given an international filing date of 19 September 2001 under 35 U.S.C. 363, and a date of 10 October 2003 under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the non-signing inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

The application is being returned to the International Division for processing as the U.S. National Stage of the above-identified international application.

Debra Brittingham
PCT Legal Office
DSB/LS:dsb

Tel: (703) 305-3401
Fax: (703) 308-6459

Conferee: Leonard Smith
PCT Legal Examiner
PCT Legal Office

2 APR 2004

UNITED STATES PATENT and TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450

www.uspto.gov

OFFICIAL GAZETTE NOTICE

37 CFR 1.47 Notice by Publication

Notice is hereby given of the filing of an application with a petition under 37 CFR 1.47 requesting acceptance of the application without the signature of all inventors. The petition has been granted. A notice has been sent to the last known address of the non-signing inventor. The inventor whose signature is missing (Mr. Michael Peter Sakno) may join in the application by promptly filing an appropriate oath or Declaration complying with 37 CFR 1.63. The international application number is PCT/CA01/01318 and was filed on 19 September 2001 in the names of Michael Peter Sakno and Walter Milani for the invention entitled BLOCK FOR FIRE AND SMOKE ALONG A BARRIER PENETRATING MEMBER. The national stage application number is 10/380,876 and has a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 10 October 2003.

27 APR 2004

UNITED STATES PATENT and TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Michael Peter Sakno
2 Muirel Avenue
Toronto, Ontario
Canada M4J 2X9

In re Application of: Sakno, et al.
Application No.: 10/380,876
PCT No.: PCT/CA01/01318
Int. Filing Date: 19 September 2001
Attorney's Docket No.: SJ-10975US
For: BLOCK FOR FIRE AND SMOKE ALONG A BARRIER PENTRATING MEMBER

Dear Mr. Sakno:

You are named as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Debra S. Brittingham
PCT Legal Examiner
Telephone: (703) 308-3401
Facsimile: (703) 308-6459

Leonard Smith
PCT Legal Examiner
PCT Legal Office

Counsel of Record: Douglas S. Johnson
133 Richmond Street West
Toronto, Ontario
Canada M5H 2L7

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

Morrison & Foerster LLP
12531 High Bluff Drive
Suite 100
San Diego, CA 92130-2010

COPY MAILED

OCT 26 2006

OFFICE OF PETITIONS

In re Application of :

Ben Rudolf De Haan :

Application No. 10/380,883 :
Filed: March 18, 2003 :
Attorney Docket No. 246152018900 :

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 29, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Thomas Ciotti on behalf of all attorneys of record who are associated with Morrison & Foerster LLP.

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.

There is an outstanding Office action mailed October 4, 2006 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

Amelia Au
Petitions Examiner
Office of Petitions

cc: **Ben Rudolf Haan**
Watertorenlaan 17
Voorburg, 2275 AW
Netherlands

cc: **Mr. Bryan H. Davidson**
Nixon & Vanderhye P.C.
11th Floor
901 North Glebe Road
Arlington, VA 22203-1808

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
10/380,883	03/18/2003	Ben Rudolf De Haan	246152018900

CONFIRMATION NO. 5614

OC000000020953785

OC000000020953785

25225
MORRISON & FOERSTER LLP
12531 HIGH BLUFF DRIVE
SUITE 100
SAN DIEGO, CA 92130-2040

Date Mailed: 10/24/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/29/2006.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

Terri S. Williams

TERRI S WILLIAMS
OP (571) 272-2991

FORMER ATTORNEY/AGENT COPY

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

SMITHKLINE BEECHAM CORPORATION
CORPORATE INTELLECTUAL PROPERTY-US, UW2220
P. O. BOX 1539
KING OF PRUSSIA PA 19406-0939

COPY MAILED
AUG 2 8 2006
OFFICE OF PETITIONS

In re Application of :
Dean, et al. :
Application No. 10/380,891 : ON PETITION
Filed: March 20, 2003 :
Attorney Docket No. P32665 :
For: IMIDAZOLE DERIVATIVES AS RAF KINASE INHIBITORS

This is a decision on the petition under 37 CFR 1.181, filed March 31, 2006 (certificate of mailing date March 27, 2006), requesting that the Office withdraw the holding of abandonment of 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 August 4, 2005, which set forth an extendable three (3) month period for reply. The Office contended that this application became abandoned on November 5, 2005 for failure to reply to the August 4, 2005 non-final Office action. A Notice of Abandonment was mailed on March 6, 2006.

Petitioners request withdrawal of the holding of abandonment based on the assertion that a request for a three month extension of time and an amendment were timely mailed on certificate of mailing date February 3, 2006 and received in the Office on February 6, 2006. 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 was charged on March 2, 2006. The mailroom date for the payment was February 6, 2006. Therefore, the three month extension of time and amendment were timely filed.

The petition under 37 CFR 1.181 is **granted**, the holding of abandonment is withdrawn, and the March 6, 2006 Notice of Abandonment is **vacated**. No petition fee has been or will be charged in connection with this matter.

Accordingly, the application file will be forwarded to Technology Center A.U. 1625 for consideration of the amendment filed on February 6, 2006 (certificate of mailing date February 3, 2006).

Telephone inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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

LEYDIG VOIT & MAYER, LTD
TWO PRUDENTIAL PLAZA, SUITE 4900
180 NORTH STETSON AVENUE
CHICAGO IL 60601-6780

COPY MAILED
JUL 27 2006
OFFICE OF PETITIONS

In re Application of
Alami
Application No. 10/380,902
Filed: March 20, 2003
Attorney Docket No. 228822
For: COMPOSITIONS COMPRISING LIGNIN AND METHODS OF MAKING AND USING THE SAME

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed June 9, 2006, to revive the above-identified application.

The petition under 37 CFR 1.137(b) is **GRANTED**.

This application became abandoned for failure to timely reply to the Restriction Requirement, mailed August 1, 2005, which set a one month shortened statutory period for reply. No proper extensions of time having been obtained pursuant to 37 CFR 1.136(a) and no reply being received in the Office, this application became abandoned on September 2, 2005. A Notice of Abandonment was mailed on May 8, 2006.

Applicant has submitted a proper reply to the Restriction Requirement in the form of an election, an acceptable statement of the unintentional nature of the delay in responding to the August 1, 2005 Restriction Requirement,[1] and the petition fee. Accordingly, the petition under 37 CFR 1.137(b) is granted.

Pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the $510.00 extension of time submitted with the petition was submitted subsequent to the maximum period obtainable for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

[1] 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.

After the mailing of this decision, the file will be returned to Technology Center AU 1651 for consideration of the election filed on June 9, 2006.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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

LEYDIG VOIT & MAYER, LTD
TWO PRUDENTIAL PLAZA, SUITE 4900
180 NORTH STETSON AVENUE
CHICAGO IL 60601-6731

COPY MAILED

MAY 10 2007

OFFICE OF PETITIONS

In re Application of	:	
Alimi	:	
Application No. 10/380,902	:	DECISION ON PETITION
Filed: March 20, 2003	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 228822	:	

This is a decision on the petition under 37 CFR 1.78(a)(6), filed March 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, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application, as required by 37 CFR 1.78(a)(5)(ii). Further, an application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed provisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3230. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

The application is being forwarded to Technology Center AU 1651 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.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/380,902	03/20/2003	1651	1091	228822	59	7

CONFIRMATION NO. 5611

CORRECTED FILING RECEIPT

OC000000023748923

23460
LEYDIG VOIT & MAYER, LTD
TWO PRUDENTIAL PLAZA, SUITE 4900
180 NORTH STETSON AVENUE
CHICAGO, IL 60601-6731

Date Mailed: 05/08/2007

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)

Hojabr Alimi, Petaluma, CA;

Power of Attorney: The patent practitioners associated with Customer Number **23460**.

Domestic Priority data as claimed by applicant

This application is a 371 of PCT/US01/29661 09/20/2001
which claims benefit of 60/327,558 09/20/2000 ABN

Foreign Applications

If Required, Foreign Filing License Granted: 05/07/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/380,902

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Compositions comprising lignin and methods of making and using the same

Preliminary Class

514

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof

unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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.O. BOX 2938
MINNEAPOLIS, MN 55402-0938

COPY MAILED

JUL 30 2007

OFFICE OF PETITIONS

In re Application of :
WENTWORTH JR, et al. :
Application No. 10/380,905 : DECISION ON PETITION
Filed: December 19, 2003 : TO WITHDRAW
Attorney Docket No. **1361.012US1** : 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 9, 2007.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to SCHWEGMAN LUNDBERG WOESSNER & KLUTH has been revoked by the assignee of the patent application on November 20, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **THE SCRIPPS RESEARCH INSTITUTE**
OFFICE OF PATENT COUNSEL, TPC-8
10550 NORTH TORREY PINES ROAD
LA JOLLA, CA 92037

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

COPY MAILED

MAY 19 2008

OFFICE OF PETITIONS

NATH & ASSOCIATES
112 SOUTH WEST STREET
ALEXANDRIA VA 22314

In re Application of
Ruppersberg, et al.
Application No. 10/380,906
Filed: 20 March, 2003
Attorney Docket No. 25365

: DECISION

This is a decision on the petition filed on 3 December, 2007, to revive an application under 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay.

The Office regrets the delay in addressing this matter, however, the instant petition was presented to the attorneys in the Office of Petitions only at this writing.

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.

As to the 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.)

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).

It appears that Petitioner has not satisfied the requirements of the regulation, to wit: The instant petition lacks a proper reply.

Petitioner as one registered to practice before the Office is well aware that an amendment after final is not of right and not a proper reply unless it *prima facie* places the application in condition for allowance—which the instant amendment does not, and the Examiner has refused to enter it.

A proper reply is an amendment *prima facie* placing the application in condition for allowance, a Notice of Appeal, or an RCE (with fee and submission under 37 C.F.R. §1.114). (See: MPEP §711.03(c).)

BACKGROUND

The record reflects that:

Petitioner failed to reply to a final Office action mailed on 25 May, 2007, with reply due absent an extension of time on or before 25 August, 2007.

The application went abandoned by operation of law after midnight 25 August, 2007.

It does not appear that the Office mailed the Notice of Abandonment before the original petition was filed.

On 3 December, 2007, Petitioner filed the instant petition (with fee) alleging unintentional delay under 37 C.F.R. §1.137(b), included therewith, *inter alia*, a reply in the form of an amendment after final, which Petitioner, as one who is registered to practice before the Office knows well is not a proper reply unless it *prima facie* places the application in condition for allowance which this does not, and made the statement of unintentional delay.

The Office mailed the Notice of Abandonment on 14 February, 2008.

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. Thus, now if one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

STATUTES, REGULATIONS

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).

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.[2],[3]

CONCLUSION

The instant petition under 37 C.F.R. §1.137(b) is **dismissed**.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By 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.**

---

[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). See specifically, the regulations at 37 C.F.R. §10.18.

[2] 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).

[3] 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. (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.) Delays in responding properly raise the question whether delays are unavoidable. 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) And the Petitioner must be diligent in attending to the matter. 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.))

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[4]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

---

[4] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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

NATH & ASSOCIATES
112 SOUTH WEST STREET
ALEXANDRIA VA 22314

COPY MAILED
JUL 18 2008

In re Application of	:	
Ruppersberg, et al.	:	
Application No. 10/380,906	:	DECISION
Filed: 20 March, 2003	:	
Attorney Docket No. 25365		

This is a decision on the petition filed on 18 June, 2008, to revive an application under 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay.

The petition is **GRANTED**.

As to the 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.)

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).

With the original petition, Petitioner failed to evidence a proper reply (having submitted an after-final amendment which is not of right and the Examiner refused to enter), and which deficiency Petitioner now seeks to overcome by averring the deposit of a divisional application on 20 November, 2007.

BACKGROUND

The record reflects that:

Petitioner failed to reply to a final Office action mailed on 25 May, 2007, with reply due absent an extension of time on or before 25 August, 2007.

The application went abandoned by operation of law after midnight 25 August, 2007.

It does not appear that the Office mailed the Notice of Abandonment before the original petition was filed.

On 3 December, 2007, Petitioner filed a petition (with fee) alleging unintentional delay under 37 C.F.R. §1.137(b), included therewith, *inter alia*, a reply in the form of an amendment after final, which Petitioner, as one who is registered to practice before the Office knows well is not a proper reply unless it *prima facie* places the application in condition for allowance which the amendment did not, and made the statement of unintentional delay.

The Office mailed the Notice of Abandonment on 14 February, 2008.

The petition of 3 December, 2007, was dismissed on 19 May, 2008.

The instant petition seeks to overcome this deficiency in that Petitioner avers the filing of a divisional application (Application No. 11/984,586).

The instant application is revived for the limited purpose of continuity.

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. Thus, now if one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office must inquire into the underlying facts

of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

STATUTES, REGULATIONS.

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).

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.[2],[3]

CONCLUSION

The instant petition under 37 C.F.R. §1.137(b) is **granted**, however, the application is revived for the sole purpose of continuity. Because continuity has been established by this decision reviving the application, the application is again abandoned in favor of a continuing application under 37 CFR 1.53(b).

The instant application is released to Technology Center/AU 1617 for such processing as required (for the sole purpose of continuity) in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the Technology Center/AU in response to this decision. It is noted that all inquiries with regard to that change in status need be directed to the Technology Center/AU where that change of status must be effected—that does not occur in the Office of Petitions.

---

[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). See specifically, the regulations at 37 C.F.R. §10.18.

[2] 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).

[3] 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. (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.) Delays in responding properly raise the question whether delays are unavoidable. 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) And the Petitioner must be diligent in attending to the matter. 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.))

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[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.

19 NOV 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

MILLEN, WHITE, ZELANO & BRANIGAN, P.C.
2200 CLARENDON BLVD.
SUITE 1400
ARLINGTON, VA 22201

In re Application of MEDERSKI et al	:	
U.S. Application No.: 10/380,908	:	
PCT Application No.: PCT/EP01/10705	:	DECISION
Int. Filing Date: 17 September 2001	:	
Priority Date Claimed: 20 September 2000	:	
Attorney Docket No.: MERCK-2160A	:	
For: 4-AMINO-QUINAZOLINES	:	

This is in response to applicant's "Petition Under 37 CFR §1.181 Requesting Withdrawal of Notice of Abandonment for Failure to Receive an Office Action" filed 05 November 2004.

BACKGROUND

On 17 September 2001, applicant filed international application PCT/EP01/10705, which claimed priority of an earlier United States application filed 20 September 2000. A copy of the international application was communicated to the USPTO from the International Bureau on 28 March 2002. The thirty-month period for paying the basic national fee in the United States expired on 20 March 2003.

On 20 March 2003, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 15 July 2003, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 05 October 2004, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909), which indicated that the application is abandoned for failure to timely respond to the Notification of Missing Requirements.

On 05 November 2004, applicant filed the present petition under 37 CFR 1.181.

DISCUSSION

According to the Official Gazette at 1156 OG 53 and MPEP 711.03(c), a petition to withdraw a holding of abandonment based on failure to receive an Office communication must include: (1) a statement by the practitioner that the Office communication was not received by the practitioner, (2) a statement by the practitioner that he searched the application file jacket and docket records and that the search indicates that the Office communication was not received, and (3) a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed.

With regard to item (1) above, applicant's representative has provided the required statement.

With regard to item (2) above, applicant's representative has provided the required statement.

With regard to item (3) above, applicant's representative has supplied a docket record which lists responses due to the USPTO on 15 September 2003 for all cases handled by the representative. This docket record illustrates the absence of any listing of a response due to a Notification of Missing Requirements.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.181 is GRANTED.

The Notification of Abandonment (Form PCT/DO/EO/909) mailed 05 October 2004 is hereby VACATED.

A proper response to the Notification of Missing Requirements must be submitted within two months from 20 October 2004 (i.e. the date applicant received the copy of the Notification of Missing Requirements). Extensions of time are available under 37 CFR 1.136(a).

This application is being returned to the United States Designated/Elected Office (DO/EO/US) to await applicant's response to the Notification of Missing Requirements.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 571-273-0459

12 MAR 2004

#6

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Andrew J. Bateman
Katten Muchin Zavis Rosenman
525 West Monroe Street
Suite 1600
Chicago, IL 60661-3693

In re Application of	:	
William Martin SNELGROVE, et al.	:	
Application No.:10/380,910	:	
PCT Application No.: PCT/CA01/01345	:	DECISION ON
International Filing Date: 20 September 2001	:	
Priority Date: 20 September 2000	:	PETITION
Attorney Docket No.: 213222-00072	:	
For: POINT OF SALE TERMINAL	:	UNDER 37 CFR 1.137(b)

Applicant's "Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b)," (petition for revival) filed in the United States Patent and Trademark Office (PTO) on 09 February 2004 is **GRANTED**.

BACKGROUND

On 10 June 2003, the PTO mailed out a Notification of Missing Requirements Under 35 U.S.C. 371 form (905 form) for this application. The 905 form stated that applicant must furnish a proper oath or declaration and the $130 Surcharge for late filing of a proper oath or declaration within two months from the date of mailing of the form or by 32 months from the priority date for the application, whichever is later. The 905 form further stated that this time period could be extended by filing a petition and fee for extension of time under the provisions of 37 CFR 1.136(a).

The two-month reply date—which is the later of the two dates mentioned in the 905 form—was 10 August 2003. 37 CFR 1.136(a) permits an extension of up to five months. Therefore, this application became abandoned at midnight of 10 January 2004.

On 09 February 2004, applicant filed the petition for revival accompanied by, *inter alia*, a compliant declaration, the $130 Surcharge for late filing of the declaration, and the $1330 petition fee set forth in 37 CFR 1.17(m).

DISCUSSION

A petition to revive an abandoned application under 37 CFR 1.137(b) must be filed without intentional delay from the time the application became abandoned and/or applicant first

became aware of the abandoned status of the application. A petition under 37 CFR 1.137(b) must be accompanied by (1) a proper reply, (2) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional,, (3) the petition fee required by law, and (4) a terminal disclaimer and fee (if the international application was filed prior to June 8, 1995).

Applicant's statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional," satisfies the requirements of 37 CFR 1.137(b)(3). Applicant's submission of a compliant declaration and payment of the $130 late Surcharge constitutes a proper reply to the 905 form. Applicant has paid the petition fee. A terminal disclaimer is not required because the application was filed on or after 08 June 1995. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

CONCLUSION

The petition to revive the application abandoned under 37 CFR 1.137(b) is **GRANTED** as to the National Stage in the United States of America.

The application has an international filing date of 20 September 2001 under 35 U.S.C. 363 and a date of 09 February 2004 under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4). The application is being returned to the National Stage Processing Division of the Office of PCT Operations for continued processing.

Boris Milef
PCT Legal Examiner
PCT Legal Administration

Ankur Parekh
Detailee
PCT Legal Administration

Telephone: (703) 308-1315
Facsimile: (703) 308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

Mail Date: 04/21/2010

Applicant	: Vasco Vollmer	: DECISION ON REQUEST FOR
Patent Number	: 7644269	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/380,917	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/08/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **675** 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.

09 MAR 2005

#6

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Michael C Soldner
Medtronic , MS 340
710 Medtronic, Parkway
Minneapolis MN 55432

In re Application of	:	
GLASS et al.	:	
Application No.: 10/380,919	:	DECISION
PCT No.: PCT/CA01/01360	:	
Int. Filing Date: 20 September 2001	:	
Priority Date: 20 September 2000	:	
Attorney's Docket No.: P11250.02	:	
For: METHOD AND SYSTEM FOR DETECTION	:	
OF CARDIAC ARRHYTHMIA	:	

This decision is in response to applicants' "PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 C.F.R. 1.181(a)" filed via facsimile transmission in the United States Patent and Trademark Office (USPTO) on 23 July 2004.

BACKGROUND

On 20 September 2001, applicant filed international application PCT/CA01/01360, which designated the United States and claimed a priority date of 20 September 2000. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 28 March 2002. The thirty-month period for paying the basic national fee in the United States expired at midnight on 20 March 2003.

On 18 March 2003, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee and the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date.

On 11 July 2003, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (FORM PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventor in compliance with 37 CFR 1.497(a)-(b) was required.

On 20 February 2004, the DO/EO/US mailed a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) indicating that the application was abandoned for failure to timely respond to the Notification mailed 11 July 2003.

On 23 July 2004, applicants filed the instant "PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 C.F.R. 1.181(a)".

DISCUSSION

Applicants' petition indicates that a response to the NOTIFICATION OF MISSING REQUIREMENTS mailed 11 July 2003 was filed on 11 September 2003. The petition under 37 CFR 1.181 in effect requests that the USPTO consider the copy of the response filed with the petition as having been filed in the USPTO on 11 September 2003. The original response has now been matched with the application file. Accordingly, the NOTIFICATION OF ABANDONMENT mailed 20 February 2004 is hereby VACATED and the petition under 37 CFR 1.181 is MOOT.

The declaration of inventors filed 17 September 2003 (The original response includes a Certificate of Mailing certifying that the correspondence was deposited with the United States Postal Service on 11 September 2003. Accordingly, the correspondence is considered as timely filed.) is in compliance with 37 CFR 1.497(a)-(b).

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.181 is **DISMISSED** as **MOOT**.

For the reasons set forth above, the NOTIFICATION OF ABANDONMENT mailed 11 July 2003 is VACATED.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application in accordance with this decision.

Daniel Stemmer
PCT Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301
Facsimile: (571) 273-0459

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:

DATE 5 :29.07

TO SPE OF : ART UNIT 1722

SUBJECT : Request for Certificate of Correction on Patent No.: 10/380,933

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.

- [X] **Approved** — All changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments:

DUANE SMITH
SUPERVISORY PATENT EXAMINER

D- 5-29-07

1722

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

COPY MAILED
OCT 13 2006
OFFICE OF PETITIONS

GARDERE/JAMES HARDIE
GARDERE WYNNE SEWELL, LLP
1601 ELM STREET
SUITE 3000
DALLAS TX 75201

In re Application of	:	
Basil Naji	:	
Application No. 10/380,934	:	ON PETITION
Filed: August 18, 2003	:	
Attorney Docket No. 131279-1041	:	

This is a decision on the petition, filed October 12, 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 25, 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 3635 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. _____

Date : October 13, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Basil Naji
Application No. :10/380,934
Filed :August 18, 2003

The above-identified application has been assigned Patent No. 7,127,864 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. 7,127,864 to Basil Naji of Australia for CEMENT RENDER SYSTEM appearing in the Official Gazette of October 31, 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

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

DYKEMA GOSSETT PLLC
FRANKLIN SQUARE, THIRD FLOOR WEST
1300 I STREET, N.W.
WASHINGTON, DC 20005-3353

COPY MAILED

OCT 2 1 2003

OFFICE OF PETITIONS

In re Application of
Philip Nichol et al
Application No. 10/380,955
Filed: March 21, 2003
Attorney Docket No. 66307-270-7

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (703) 305-9285.

This file is being forwarded to Technology Center AU 3746.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE NW
WASHINGTON, DC 20004

COPY MAILED
SEP 13 2006
OFFICE OF PETITIONS

In re Application of :
Tatsuhiko Aoki, et al. :
Application No. 10/380,957 : ON PETITION
Filed: August 22, 2003 :
Attorney Docket No.: 041094-5020 :

This is a decision on the petition, filed September 13, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on August 25, 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 3632 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 : September 13, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : Tatsuhiko Aoki, et al.
Application No. : 10/380,957
Filed : August 22, 2003

The above-identified application has been assigned Patent No. 7,114,691 and an issue date of October 3, 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 3, 2006:

> "All reference to Patent No. 7,114,691 to TATSUHIKO AOKI, ET AL. of JAPAN for PALLET FOR COIL-LIKE TRANSFERRED OBJECT, STRUCTURAL BODY FOR LOADING COIL-LIKE TRANSFERRED OBJECT ON PALLET, STRUCTURAL BODY FOR STORING COIL-LIKE TRANSFERRED OBJECT LOADING PALLET IN CONTAINER, AND TRANSFERRING METHOD appearing in the Official Gazette of October 3, 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

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

FRISHAUF, HOLTZ, GOODMAN & CHICK, PC
220 Fifth Avenue
16TH Floor
NEW YORK NY 10001-7708

COPY MAILED

AUG 13 2008

In re Application of	:	
Axel Allera, et al.	:	
Application No. 10/380,963	:	DECISION ON PETITION
Filed: June 16, 2003	:	TO WITHDRAW
Attorney Docket No. 03178/RSB	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 14, 2008.

The request is **NOT APPROVED** because it is moot.

In view of the Request to Rescind filed April 30, 2008, the withdrawal as attorney or agent and change of address has been withdrawn and the attorneys and/or agents associated with customer number 01933 remain of record.

Telephone inquires concerning this decision should be directed to Terri Williams at 571-272-2991.

Terri Williams

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

OCT 04 2007

Richard J Veltman
The Black & Decker Corporation
TW 199
701 East Joppa Road
Towson MD 21286

In re Application of:
BAKER, SCOTT C. et al
Serial No.: 10/380,964
Filed: Feb. 6, 2004
Docket: 5460-25a
Title: FAUCET WITH UNDERBODY

DECISION ON PETITION TO WITHDRAW FINALITY OF THE FINAL OFFICE ACTION

This is a decision on the petition filed on Aug. 4, 2006 to withdraw the finality of the Office action of Apr. 12, 2006.

The petition is **DISMISSED as untimely**.

The examiner issued a non-final Office action on Sep. 2, 2005 rejecting all claims in the case. In response to the office action, on Mar. 3, 2006 the applicant filed an amendment canceling claims 3 and 6-13 and placing the cancelled claim 3 in independent form. On Apr. 12, 2006, the examiner issued a final Office action. On May 12, 2006, the applicant filed a response to the final rejection of Apr. 12, 2006 with no amendment to the claims except arguments to traverse the rejection. On May 24, 2006, the examiner issued an advisory action informing the applicant that the arguments have been considered but does not place the application in condition for allowance (see Paragraph 11 of advisory action). On Aug. 4, 2006, the current petition to withdraw the finality of the final Office action of Jan. 26, 2005 was filed.

The petitioner's request to withdraw the finality of the Office action mailed on Apr. 12, 2005 was based on the fact that rejection in the final rejection did not appear in the first Office action. In the advisory action of May 24, 2006, the examiner indicated that the substance of claim 3 was rejected on a combination of Young and Turner in both Office actions. The examiner further indicated that the amendment after final filed on May 12, 2006 has been considered and the amendment did not place the application in condition for allowance.

Applicable Rules or Statutes

37 CFR 1.181(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.

Review of the record shows that the instant petition was filed more than three months after the mailing date of the final Office action of April 2, 2006. Pursuant to 37 CFR 1.181(f), 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 relief requested will not be granted. Petitioner is entitled to request reconsideration of this decision provided that the request for reconsideration is filed within two months of the date of this decision.

The application is being forwarded to the Supervisory Patent Examiner of Art Unit 3751 for further processing. Any inquiry regarding this decision should be directed to Henry Yuen, Special Program Examiner, at (571) 272-4856.

PETITION DISMISSED

Karen M. Young

Karen M. Young, Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Richard J Veltman
The Black & Decker Corporation
TW 199
701 East Joppa Road
Towson MD 21286

COPY MAILED

DEC 27 2007

OFFICE OF PETITIONS

In re Application of	:	
Scott C. Baker et al	:	
Application No. 10/380,964	:	DECISION ON PETITION
Filed: February 6, 2004	:	
Attorney Docket No. 5460-25	:	

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 **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of April 12, 2006, which set a three month shortened statutory period for reply. As no reply placing the application in condition for allowance and no extensions of time were obtained under the provisions of 37 CFR 1.136(a), this application became abandoned on July 13, 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 (1) above.

As noted above, 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 April 12, 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). The petition indicates that the reply was previously filed on August 1, 2006 (received in the USPTO on August 4, 2006). However, it is noted that the indicated reply is the filing of a petition to withdraw the finality of the Office action of April 12, 2006, which petition was dismissed as untimely in a decision mailed June 4, 2007. Therefore, as the finality of the April 12, 2006 Office action has not been withdrawn, the filing of the August 4, 2006 petition is not a proper reply. Accordingly, the reply to continue prosecution of this application must be the filing of an amendment that *prima facie* places the application in condition for allowance, a Notice of Appeal (and appeal fee), a Request for Continued Examination and submission under 37 CFR 1.114, or the filing of a continuing application under 37 CFR 1.53(b).

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By 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.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218 or to the Office of Petitions Help Desk at (571) 272-3282 after January 3, 2008.

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

PATRICK W. RASCHE
ARMSTRONG TEASDALE
ONE METROPOLITAN SQUARE
SUITE 2600
ST. LOUIS, MO 63102-2740

COPY MAILED

JUL 30 2008

In re Application of	:	
K. O. Kai Bar, et al.	:	
Application No. 10/380,996	:	DECISION ON PETITION
Filed: March 18, 2003	:	
Attorney Docket No. M/IND-050-PC/US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 25, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, May 20, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on August 21, 2004.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. *See* MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item (3).

There are three periods to be considered during the evaluation of a petition under 37 CFR 1.137(b):

(1) the delay in reply that originally resulted in the abandonment;

(2) the delay in filing an initial petition pursuant to 37 CFR 1.137(b) to revive the application; and

(3) the delay in filing a grantable petition pursuant to 37 CFR 1.137(b) to revive the application.

Currently, the delay has not been shown to the satisfaction of the Director to be unintentional for periods (1) and (2).

As to Period (1):

The patent statute at 35 U.S.C. § 41(a)(7) authorizes the Director to revive an "unintentionally abandoned application." The legislative history of Public Law 97-247 reveals that the purpose of 35 U.S.C. § 41(a)(7) is to permit the Office to have more discretion than in 35 U.S.C. §§ 133 or 151 to revive abandoned applications in appropriate circumstances, but places a limit on this discretion, stating that "[u]nder this section a petition accompanied by either a fee of $500 or a fee of $50 **would not be granted where the abandonment** or the failure to pay the fee for issuing the patent **was intentional** as opposed to being unintentional or unavoidable." [emphasis added]. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6-7 (1982), *reprinted in* 1982 U.S.C.C.A.N. 770-71. The revival of an intentionally abandoned application is antithetical to the meaning and intent of the statute and regulation.

35 U.S.C. § 41(a)(7) authorizes the Director to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 CFR 1.137(b)(3) provides that a petition under 37 CFR 1.137(b) must be accompanied by a statement that the delay was unintentional, but provides that "[t]he Commissioner may require additional information where there is a question whether the delay was unintentional." Where, as here, there is a question whether the initial delay was unintentional, the petitioner must meet the burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). *See* In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989); 37 CFR 1.137(b). Here, in view of the inordinate delay (almost 3 ½ years) in resuming prosecution, there is a question whether the entire delay was unintentional. Petitioner should note that the issue is not whether some of the delay was unintentional by any party; rather, the issue is whether the entire delay has been shown to the satisfaction of the Director to be unintentional.

The question under 37 CFR 1.137(b) for period (1) is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unintentional. Accordingly, any renewed petition must clearly identify the party having the right to reply to avoid abandonment on August 21, 2004. That party, in turn must explain what effort(s) was made to further reply to the outstanding Office action and, further, why no reply was filed. If no effort was made to further reply, then that party must explain why the delay in this application does not result from a deliberate course of action (or inaction). Likewise, as Mr. Rasche of Armstrong Teasdale, LLP was counsel of record at the time of abandonment, he should explain why this application became abandoned while it was under their control and what efforts were

made to further reply of itself and with whom this matter was discussed outside of Armstrong Teasdale, LLP. Copies of any correspondence relating to the filing, or to not filing a further reply to the outstanding Office action are required from responsible person(s), Mr Rasche and whoever else was involved with this application at the time of abandonment. Statements are required from any and all persons then at Armstrong Teasdale, and the responsible person(s) having firsthand knowledge of the circumstances surrounding the lack of a reply to the outstanding Office action. As the courts have made clear, it is pointless for the USPTO to revive a long abandoned application without an adequate showing that the delay did not result from a deliberate course of action. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005); Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996) (unpublished) (patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

As to Period (2):

Likewise, where the applicant deliberately chooses not to seek or persist in seeking the revival of an abandoned application, or where the applicant deliberately chooses to delay seeking the revival of an abandoned application, the resulting delay in seeking revival of the abandoned application cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b). *See* MPEP 711.03(c).

The language of both 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b) are clear and unambiguous, and, furthermore, without qualification. That is, the delay in filing the reply during prosecution, as well as in filing the petition seeking revival, must have been, without qualification, "unintentional" for the reply to now be accepted on petition. The Office requires that the entire delay be at least unintentional as a prerequisite to revival of an abandoned application to prevent abuse and injury to the public. *See* H.R. Rep. No. 542, 97th Cong., 2d Sess. 7 (1982), reprinted in 1982 U.S.C.C.A.N. 771 ("[i]n order to prevent abuse and injury to the public the Commissioner . . . could require applicants to act promptly after becoming aware of the abandonment"). The December 1997 change to 37 CFR 1.137 did not create any new right to overcome an intentional delay in seeking revival, or in renewing an attempt at seeking revival, of an abandoned application. *See* Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53160 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 87 (October 21, 1997), which clearly stated that any protracted delay (here, over 3 ½ 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 Armstrong Teasdale, LLP and the responsible person(s) having firsthand knowledge of the circumstances surrounding the protracted delay, after the abandonment date, in seeking revival.

As noted in MPEP 711.03(c)(II), subsection D, in instances in which such petition was not filed within 1 year of the date of abandonment of the application, applicants should include:

> (A) the date that the applicant first became aware of the abandonment of the application; and
> (B) a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant.

In either instance, applicant's failure to carry the burden of proof to establish that the "entire" delay was "unavoidable" or "unintentional" may lead to the denial of a petition under 37 CFR 1.137(b), regardless of the circumstances that originally resulted in the abandonment of the application. *See also* New York University v. Autodesk, 2007 U.S. DIST LEXIS, U.S.District LEXIS 50832, *10 -*12 (S.D.N.Y. 2007)(protracted delay in seeking revival undercuts assertion of unintentional delay).

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.

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 the undersigned at (571) 272-1642.

April M. Wise

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

PATRICK W. RASCHE
ARMSTRONG TEASDALE
SUITE 2600
ONE METROPOLITAN SQUARE
ST. LOUIS, MO 63102-2740

COPY MAILED

JAN 26 2009

OFFICE OF PETITIONS

In re Application of	:	
K. O. Kai Bar, et al.	:	
Application No. 10/380,996	:	DECISION ON PETITION
Filed: March 18, 2003	:	
Attorney Docket No. M/IND-050-PC/US	:	

This is a decision on the renewed petition, filed September 30, 2008, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

This application was held abandoned for failure to reply to the non-final Office action mailed May 20, 2004, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on December 29, 2004.

Petitioner asserts that the Office action dated May 20, 2004 was not received.

A review of the written record indicates no irregularity in the mailing of the Office action and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

1. a statement from practitioner stating that the Office action was not received by the practitioner;

2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and

3. a copy of the docket record where the non-received Office action would have been entered had it been received must be attached to and referenced in the practitioner's statement.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition fails to satisfy all of the above-stated requirements.

Accordingly, absent the required evidence to establish non-receipt of the Office action of May 20, 2004, the petition requesting withdrawal of the holding of abandonment cannot be granted at this time.

If petitioner cannot supply the evidence necessary to withdraw the holding of abandonment, or simply does not wish to, petitioner should consider filing a petition under 37 CFR 1.137(b) stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) was accompanied by the $1540 petition fee.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

Any request for reconsideration of this decision should be filed within two (2) months from the mail date of this decision. *Note* 37 CFR 1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 CFR 1.181 to Withdraw the Holding of Abandonment."

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile: **(571) 273-8300**
Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to April M. Wise at (571) 272-1642.

/dab/
David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

PATRICK W. RACHE
ARMSTRONG TEASDALE
SUITE 2600
ONE METROPOLITIAN SQUARE
ST. LOUIS, MO 63102-2740

MAILED

MAY 11 2009

OFFICE OF PETITIONS

In re Application of	:	
K. O. Kai Bar, et al.	:	
Application No. 10/380,996	:	DECISION ON PETITION
Filed: March 18, 2003	:	
Attorney Docket No. M/IND-050-PC/US	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed March 26, 2009, to revive the above-identified application.

This application became abandoned for failure to reply in a timely manner to the non-final Office action mailed May 20, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on August 21, 2004.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1620, and (3) a proper statement of unintentional delay.

The petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 2881 for appropriate action by the Examiner in the normal course of business on the reply received January 25, 2008.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

PAUL, HASTINGS, JANOFSKY & WALKER LLP
875 15th Street, NW
Washington DC 20005

MAILED

JAN 14 2010

OFFICE OF PETITIONS

In re Application of	:	
Jan Branzell et al.	:	
Application No. 10/381,000	:	DECISION ON PETITION
Filed: July 25, 2003	:	TO WITHDRAW
Attorney Docket No. **HPX0081-PCT**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed November 25, 2009.

The request is **NOT APPROVED**.

The request cannot be approved because the requested change in the correspondence address is improper.

The Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *who properly became of record under 37 CFR 3.71,* or, if no assignee of the entire interest has properly been made of record, the most current address information provided for the first named inventor. 37 CFR 3.71(c) states:

> *An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee.*

The assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, the statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

Therefore, as there is currently no Statement under 37 CFR 3.73(b) with the current assignee information of record in the instant application, the Office cannot change the correspondence address to the address on the Request to Withdraw at this present time.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to JoAnne Burke at 571-272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

16 SEP 2004

09.28.04

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

William E. Vaughan
BELL BOYD & LLOYD
P.O. Box 1135
Chicago, Illinois 60690-1135

In re Application of: BIENEK, Bernd, et al.
U.S. Application No.: 10/381,014
PCT No.: PCT/DE01/03341
International Filing Date: 31 August 2001
Priority Date: 30 September 2000
Atty Docket No.: 112740-799
For: METHOD FOR CALIBRATING THE FREQUENCY OF A RF OSCILLATOR IN A MOBILE PART OF A MOBILE COMMUNICATIONS DEVICE

DECISION ON PETITION TO CORRECT FILING DATE

This decision is issued in response to the "Petition To Correct Filing Date" filed 10 May 2004 (and resubmitted on 16 August 2004) treated herein as a petition under 37 CFR 1.10(c). No petition fee is required.

BACKGROUND

On 31 August 2001, applicants filed international application PCT/DE01/03341 which claimed a priority date of 30 September 2000 and which designated the United States. On 28 March 2002, a copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) by the International Bureau (IB). The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 20 March 2003.

On 20 March 2003, applicants filed a Transmittal Letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee and a translation of the international application into English.

On 17 June 2003, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification Of Missing Requirements" (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497, the $130 surcharge for filing the declaration later than thirty months after the priority date, and $280 in claims fees were required.

On 18 August 2003, applicants submitted by "Express Mail" label number EV351199062US a response to the Notification Of Missing Requirements. The response included the required surcharge and claims fees payments, as well as an executed declaration in compliance with 37 CFR 1.497.

On 29 September 2003, the DO/EO/US mailed a "Notification Of Acceptance" (Form PCT/DO/EO/903) identifying 19 August 2003 as the date of receipt for the 35 U.S.C. 371 requirements. On the same date, a filing receipt was issued identifying 19 August 2003 as the filing date.

On 10 May 2004, applicants filed the petition considered herein (the petition was resubmitted on 16 August 2004). The petition asserts that, because applicants filed the response to the Notification Of Missing Requirements on 18 August 2003, the 35 U.S.C. 371 date for the present application should be corrected to 18 August 2003.

DISCUSSION

Applicants' response to the Notification Of Missing Requirements included a "Certificate Of Mailing By Express Mail Under 37 CFR 1.10" that: (1) itemized the filed materials (including the declaration and surcharge check); (2) identified the "Express Mail" label number (EV351199062US); and (3) identified the deposit date (18 August 2003). The present petition includes a copy of the "Express Mail" label number EV351199062US; this label identifies the present application's docket number and bears a "date in" of 18 August 2003. Based on applicants' statements in the present petition and the "date in" on the "Express Mail" label, it is concluded that the materials filed by applicant in response to the Notification Of Missing Requirements were deposited with the USPS as "Express Mail" on 18 August 2003. Pursuant to 37 CFR 1.10(c), these materials are properly accorded a filing date of 18 August 2003.

The materials filed by applicants on 18 August 2003 completed the requirements under 35 U.S.C. 371(c)(1),(c)(2), and (c)(4).

CONCLUSION

Applicants' petition under 37 CFR 1.10(c) is **GRANTED**.

The Notification of Acceptance (Form PCT/DO/EO/903) and filing receipt mailed 29 September 2003 are hereby **VACATED**.

The National Stage Processing Branch of the Office of PCT Operations will be instructed to issue a corrected Notification of Acceptance (Form PCT/DO/EO/903) properly identifying 18 August 2004 as the date of receipt of the requirements under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4), and to issue a corrected filing receipt identifying 18 August 2003 as the filing date.

Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
Telephone: (703) 308-6155
Facsimile: (703) 308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No. 030105

MAR 2 2 2005

MCDERMOTT, WILL & EMERY
600 13TH STREET, NW
WASHINGTON, DC 20005-3096

In re Application of	:	
TOSHIKAZU SHIBATA et al.	:	DECISION ON PETITION
Application No. 10/381,017	:	
Filed: March 20, 2003	:	
Attorney Docket No. 50212-481	:	

This is a decision on the petition under 37 C.F.R. § 1.102, filed September 10, 2003 to make the above-identified application special.

The petition requests that the above-identified application be made special under the accelerated examination procedure set forth in the Manual of Patent Examining Procedure (M.P.E.P.), Section 708.02, Item VIII: Accelerated Examination.

The petition complies with M.P.E.P. § 708.02, Item VIII: Accelerated Examination, in that it is accompanied by (a) a check covering the required petition fee of $130.00, (b) a statement that all claims are directed to 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, or professional searchers, etc., the field of search was also provided, (d) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims, and (e) a detailed description of the submitted references and discussions pointing out how the claimed subject matter distinguishes over these references.

For the above stated reasons, the petition is GRANTED.

The application file is being forwarded to the examiner for expedited prosecution.

If the examiner can make this application special without prejudice to any possible interfering applications, and he/she should make a rigid search for such, he/she is authorized to do so for the next action. Should the application be rejected, the application will not be considered special for the subsequent action unless the applicant promptly makes a bona fide effort to place the

application in condition for allowance, even if it is necessary to have an interview with the examiner to accomplish this purpose.

If the examiner finds any interfering application for the same subject matter, he/she should consider such application simultaneously with this application and should state in the official letter of such application that he/she is taking it out of its turn because of possible interference.

Should an appeal be taken in this application or should this application becomes involved in an interference, consideration of the appeal and the interference will be expedited by all Patent and Trademark Office officials concerned, contingent likewise upon diligent prosecution by the applicant.

After allowance, this application will be given priority for printing. See M.P.E.P. § 1309.

The petition is granted to the extent indicated.

Jose G. Dees, Special Program Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

27 OCT 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

John W. Behringer
Fitzpatrick, Cella, Harper & Scinto
30 Rockefeller Plaza
New York, NY 10112-3801

In re Application of KAHL et al	:	
U.S. Application No.: 10/381,028	:	
PCT Application No.: PCT/US01/29584	:	
Int. Filing Date: 21 September 2001	:	DECISION
Priority Date Claimed: 21 September 2000	:	
Attorney Docket No.: 01555.400900	:	
For: METHOD OF MANUFACTURING AND	:	
DISTRIBUTING A GARMENT	:	
MEMORIALIZING A PLACE OR OBJECT	:	

This is in response to applicant's "Petition Under 37 C.F.R. § 1.47(a)" filed 21 August 2003.

BACKGROUND

On 21 September 2001, applicant filed international application PCT/US01/29584, which claimed priority of an earlier United States application filed 21 September 2000. A copy of the international application was communicated to the USPTO from the International Bureau on 28 March 2002. The thirty-month period for paying the basic national fee in the United States expired on 21 March 2003.

On 21 March 2003, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 21 May 2003, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 21 August 2003, applicant filed the present petition under 37 CFR 1.47(a).

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) an oath or declaration by each applicant on his or her own behalf and on behalf of the nonsigning joint inventors, (2) factual proof that the missing joint inventors refuse to join in the application or cannot be reached after diligent effort, (3) the fee set forth in §1.17(i), and (4) the last known addresses of the nonsigning joint inventors.

With regard to item (1) above, applicant has submitted a declaration signed by Jack Kahl on his own behalf and on behalf of the nonsigning inventor Steven Brown.

With regard to item (2) above, MPEP 409.03(d) states in relevant part,

> Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, an affidavit or declaration of facts should be submitted which fully describes the exact facts which are relied on to establish that a diligent effort was made. . . . The affidavit or declaration of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as certified mail return receipt, cover letter of instructions, telegrams, etc., that support a finding that the nonsigning inventor could not be found or reached should be made part of the affidavit or declaration. It is important that the affidavit or declaration contain statements of fact as opposed to conclusions.

The petition states that inventor Steven Brown cannot be located. Applicant has submitted an affidavit from the person with firsthand knowledge of attempts to find Brown (see affidavit of Jack Kahl). Kahl's affidavit provides details of attempts to reach Brown by postal mail, telephone, and through a business contact. It is noted, however, that Kahl's affidavit references a "Delivery Confirmation" (i.e. Exhibit D) which states that Brown was no longer present at the delivery address. Exhibit D attached to the affidavit contains a copy of the Notification of Missing Requirements but a "Delivery Confirmation" document is not present. Applicant should provide a copy of the missing document.

With regard to item (3) above, applicant has provided the requisite petition fee.

With regard to item (4) above, the petition states the last known address of the nonsigning inventor.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.47(a) is DISMISSED without prejudice.

If reconsideration on the merits of the petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to timely file a proper response will result in ABANDONMENT of the application. Extensions of time are available under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)". No additional petition fee is required.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 703-308-6614
Facsimile: 703-308-6459

19 NOV 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

John W. Behringer
Fitzpatrick, Cella, Harper & Scinto
30 Rockefeller Plaza
New York, NY 10112-3801

In re Application of KAHL et al	:	
U.S. Application No.: 10/381,028	:	
PCT Application No.: PCT/US01/29584	:	
Int. Filing Date: 21 September 2001	:	DECISION
Priority Date Claimed: 21 September 2000	:	
Attorney Docket No.: 01555.400900	:	
For: METHOD OF MANUFACTURING AND	:	
DISTRIBUTING A GARMENT	:	
MEMORIALIZING A PLACE OR OBJECT	:	

This is in response to applicant's "Renewed Petition" filed 12 November 2003.

BACKGROUND

On 21 September 2001, applicant filed international application PCT/US01/29584, which claimed priority of an earlier United States application filed 21 September 2000. A copy of the international application was communicated to the USPTO from the International Bureau on 28 March 2002. The thirty-month period for paying the basic national fee in the United States expired on 21 March 2003.

On 21 March 2003, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 21 May 2003, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 21 August 2003, applicant filed a petition under 37 CFR 1.47(a).

On 27 October 2003, this Office mailed a decision dismissing the 21 August 2003 petition.

On 12 November 2003, applicant filed the present renewed petition under 37 CFR 1.47(a).

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) an oath or declaration by each applicant on his or her own behalf and on behalf of the nonsigning joint inventors, (2) factual proof that the missing joint inventors refuse to join in the application or cannot be reached after diligent effort, (3) the fee set forth in §1.17(i), and (4) the last known addresses of the nonsigning joint inventors.

Applicant has previously satisfied items (1), (3), and (4) above.

With regard to item (2) above, MPEP 409.03(d) states in relevant part,

> Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, an affidavit or declaration of facts should be submitted which fully describes the exact facts which are relied on to establish that a diligent effort was made. . . . The affidavit or declaration of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as certified mail return receipt, cover letter of instructions, telegrams, etc., that support a finding that the nonsigning inventor could not be found or reached should be made part of the affidavit or declaration. It is important that the affidavit or declaration contain statements of fact as opposed to conclusions.

The petition states that inventor Steven Brown cannot be located. Applicant has submitted an affidavit from the person with firsthand knowledge of attempts to find Brown (see affidavit of Jack Kahl). Kahl's affidavit provides details of attempts to reach Brown by postal mail, telephone, and through a business contact. Furthermore, Kahl's affidavit references a "Delivery Confirmation" (i.e. Exhibit D) which indicates that Brown was no longer present at the delivery address. Thus, it can be concluded with reasonable certainty that Brown cannot be found after diligent effort.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.47(a) is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 21 September 2001, and a date under 35 U.S.C. 371(c) of 21 August 2003.

As set forth in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the nonsigning inventor at the last known address of record and will be published in the *Official Gazette*.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 703-308-6614
Facsimile: 703-308-6459

19 NOV 200

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Steven Brown
1007 Woodfield Drive
New Albany, IN 47150

In re Application of KAHL et al
U.S. Application No.: 10/381,028
PCT Application No.: PCT/US01/29584
Int. Filing Date: 21 September 2001
Priority Date Claimed: 21 September 2000
For: METHOD OF MANUFACTURING AND DISTRIBUTING A GARMENT MEMORIALIZING A PLACE OR OBJECT

Dear Steven Brown:

You are named as a joint inventor in the above-captioned United States national stage application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost set forth in 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you choose to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Bryan Tung
PCT Legal Examiner
PCT Legal Office
Telephone: 703-308-6614
Facsimile: 703-308-6459

John W. Behringer
Fitzpatrick, Cella, Harper & Scinto
30 Rockefeller Plaza
New York, NY 10112-3801

Attorney Docket No.: 01555.400900

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

COPY MAILED

JUL 23 2007

OFFICE OF PETITIONS

DAVID W. HIGHET, VP AND CHIEF IP COUNSEL
BECTON, DICKINSON AND COMPANY
1 BECTON DRIVE, MC 110
FRANKLIN LAKES NJ 07417-1880

In re Application of	:	
Gerhard Weber	:	
Application No. 10/381,029	:	ON PETITION
Filed: April 1, 2003	:	
Attorney Docket No. P6808	:	

This is a decision on the petition, filed July 17, 2007 and resubmitted on July 23, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 11, 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 1753 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

caj

Mailed : 3-13-07

In re Application of
Adolf Bernds et al.
Serial No. 10/381,032
Filed: August 20, 2003
For: ELECTRODE AND/OR CONDUCTOR TRACK FOR ORGANIC COMPONENTS AND PRODUCTION METHOD THEREFOR

DECISION ON PETITION

This is a decision on the PETITION UNDER 37 CFR 1.144 TO WITHDRAW THE RESTRICTION REQUIREMENT mailed July 28, 2006 and made final in the office action mailed November 14, 2006.

On July 28, 2006, a two way restriction requirement was made by the examiner. The examiner took the position that the groupings of claims were related as process of making and product made. Applicants traversed the restriction requirement in a response filed August 28, 2006. The examiner repeated the restriction requirement in an office action mailed November 14, 2006 and made the restriction requirement final. Claims 1-4 and 6 were withdrawn from consideration as being drawn to a non-elected invention.

On January 19, 2007, the instant petition under 37 CFR 1.144 was filed to formally request the withdrawal of the restriction requirement.

Applicant's request withdrawal of the restriction requirement because the product as claimed cannot be made by another process.

DECISION

Sections 806.05(f) of the MPEP states:

806.05(f) Process of Making and Product Made
A process of making and a product made by the process can be shown to be distinct inventions if either or both of the following can be shown: (A) that the process as claimed is not an obvious process of making the product and the process as claimed can be used to make another materially different product; or (B) that the product as claimed can be made by another materially different process.
Allegations of different processes or products need not be documented.

A product defined by the process by which it can be made is still a product claim (*In re*

Bridgeford, 357 F.2d 679, 149 USPQ 55 (CCPA 1966)) and can be restricted from the process if the examiner can demonstrate that the product as claimed can be made by another materially different process; defining the product in terms of a process by which it is made is nothing more than a permissible technique that applicant may use to define the invention.

In requiring restriction, the examiner states that the product as claimed could be made by another and materially different process, such as a non-photolithographic additive process. The petitioner argues that the product as claimed cannot be made by another process and further argues that the product requires the product-by-process limitations. These arguments are not persuasive. As stated above, a product defined by the process by which it is made is still a product claim and can be restricted from the process if the examiner can demonstrate that the product as claimed can be made by another materially different process. In this case, the examiner has set forth a different process to make the instantly claimed product and applicants did not sufficiently rebut this. In the instant case, the mere statement by applicants that they are unaware of any other method of making the claimed product, is not adequate to shift the burden to the examiner to document a viable alternative process.

Accordingly, the restriction requirement is proper and the petition to withdraw the restriction requirement is **DENIED**.

JMStone

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

CARELLA, BYRNE, BAIN, GILFILLAN, CECCHI, STEWART & OLSTEIN
5 BECKER FARM ROAD
ROSELAND NJ 07068

03 MAR 2006

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

Bruce H. Bernstein
Greenblum & Bernstein, P.L.C.
1950 Roland Clarke Place
Reston, VA 20191

In re Application of	:	
YAMANO, et al.	:	
Application No.: 10/381,047	:	DECISION ON PETITION
PCT No.: PCT/JP01/08331	:	
Int. Filing Date: 26 September 2001	:	UNDER 37 CFR 1.181
Priority Date: 26 September 2000	:	
Atty Docket No.: P23506	:	
For: DISPLAY UNIT AND DRIVE SYSTEM	:	
THEREOF AND AN INFORMATION DISPLAY	:	
UNIT	:	

This is a decision on applicant's "Request For Correction of Filing" filed 18 May 2005 in the United States Patent and Trademark Office (USPTO). The request is being treated as a petition under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 25 March 2003, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a first preliminary amendment and an unexecuted declaration of the inventors.

On 27 August 2003, applicant was mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) informing applicant of the need to provide a signed oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the international application number and international filing date. In addition, applicant was informed of the need to provide payment of the $130.00 surcharge for providing an executed oath or declaration of the inventors later than thirty months from the priority date. Applicant was afforded two months to file the proper response.

On 10 September 2003, applicant filed an executed combined declaration and power of attorney along with a response and postcard receipt indicating that the declaration had been filed on 16 June 2003.

On 11 November 2003, applicant was mailed a "Notification of Acceptance" (Form PCT/DO/EO/903) indicating a 371 date of receipt of the 35 U.S.C. 371(c)(1), (c)(2) and (c)(4)

requirements as 10 September 2003.

On 18 May 2003, applicant filed the present petition claiming that the 371 requirements were satisfied on 16 June 2003.

DISCUSSION

Applicant has provided a legible copy of the receipt postcard which shows a USPTO date stamp, "Rec'd PCT/PTO 16 JUN 2003" and clearly identifies, "PCT Branch Hand Carry" and has check marks next to the items "New Executed Declaration" as well as listing the title, applicants, application number and attorney docket number. The evidence is sufficient to establish that the combined declaration and power of attorney for this application was received in the USPTO on 16 June 2003.

CONCLUSION

Applicant's petition under 37 CFR 1.181 is **GRANTED**.

The application will be given an international filing date of 26 September 2001 under 35 U.S.C. 363 and a date of **16 June 2003** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

The "Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495" (Form PCT/DO/EO/903) mailed 05 November 2003 indicating a date of 10 September 2003 under 35 U.S.C. 371(c) is hereby **VACATED**.

This application is being returned to the United States Designated/Elected Office (US/DO/EO) for further processing in accordance with this decision, namely the issuance of a "Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495" (Form PCT/DO/EO/903) and a corrected filing receipt indicating the correct 371 date as detailed above.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459

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

GREENBLUM & BERNSTEIN, P.L.C.
1950 ROLAND CLARKE PLACE
RESTON VA 20191

MAILED

MAY 13 2010

OFFICE OF PETITIONS

In re Application of
Atsuhiro Yamano et al.
Application No. 10/381,047
Filed: June 16, 2003
Atty. Dkt. No.: P23506

: 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(b)", filed December 18, 2009. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from three hundred nineteen (319) days to four hundred five (405) days.

The request for correction of the initial determination of patent term adjustment (PTA) is GRANTED. The determination of PTA at the time of the mailing of the Notice of Allowance is four hundred five (405) days.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment determination at the time of the mailing of the Notice of Allowance is four hundred five (405) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On September 21, 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 to date is three hundred nineteen (319) days.

The Office initially determined a patent term adjustment of three hundred nineteen (319) days based on an adjustment for PTO delay of four hundred thirteen (413) days, pursuant to 35 U.S.C. 154(b)(1)(A)(I) and 37 CFR §§1.702(a)(1) reduced by ninety-four days (94) days of applicant delay pursuant to 37 C.F.R. §1.704(b).

Applicant disputes the period of adjustment for Office failure to mail a first action under 35 U.S.C. 132. Applicant asserts that the 371 completion date is incorrectly listed on PAIR as September 10, 2003, instead of June 16, 2003, a difference of 86 days and the period should be calculated as 499 days.

The record supports a conclusion that the patent issuing from the application is not subject to a terminal disclaimer.

A review of the application history confirms that the requirements of 35 U.S.C. 371 were fulfilled on June 16, 2003 and not on September 10, 2003 as indicated in the PTA Calculation and thus the number of days in the period of adjustment pursuant to § 1.703(a)(1) for the Office's mailing of a first action under 35 U.S.C. 132 on December 28, 2005, is 499 days. This period is counted beginning on the day after the date that is fourteen months after the date on which the application fulfilled the requirements of 35 U.S.C. 371, June 16 2003, and ending on the date of the mailing of the first action under 35 U.S.C. 132, December 28, 2005.

Given the reduction of 499 days for PTO delay, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is four hundred forty-three (405) days.

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.

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 specific to this decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

Anthony Knight
Director
Office of Petitions

Enclosure: Copy of Revised PALM Screen

Day : Tuesday
Date: 5/11/2010

PALM INTRANET

Time: 10:11:23

PTA Calculations for Application: 10/381047			
Application Filing Date:	06/16/2003	PTO Delay (PTO):	413
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	94
Post-Issue Petitions:	0	Total PTA (days):	450
PTO Delay Adjustment:	131		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
139	05/11/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	131		
107	09/21/2009	MAIL NOTICE OF ALLOWANCE			
106	09/15/2009	ISSUE REVISION COMPLETED			
105	09/15/2009	DOCUMENT VERIFICATION			
104	09/15/2009	EXAMINER'S AMENDMENT COMMUNICATION			
103	09/11/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
102	09/11/2009	NOTICE OF ALLOWABILITY			
100	07/07/2009	DATE FORWARDED TO EXAMINER			
99	07/02/2009	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
98	07/07/2009	DATE FORWARDED TO EXAMINER			
97	07/02/2009	REQUEST FOR CONTINUED EXAMINATION (RCE)		30	84
96	07/07/2009	DISPOSAL FOR A RCE / CPA / R129			
95	07/02/2009	REQUEST FOR EXTENSION OF TIME - GRANTED			
94	07/02/2009	WORKFLOW - REQUEST FOR RCE - BEGIN			
93	06/17/2009	EMAIL NOTIFICATION			
92	06/17/2009	MAIL ADVISORY ACTION (PTOL - 303)			
91	06/13/2009	ADVISORY ACTION (PTOL-303)			
90	06/04/2009	DATE FORWARDED TO EXAMINER			
89	06/02/2009	AMENDMENT AFTER FINAL REJECTION			
88	03/11/2009	CASE DOCKETED TO EXAMINER IN GAU			
87	03/10/2009	CASE DOCKETED TO EXAMINER IN GAU			
86	03/02/2009	ELECTRONIC REVIEW			
85	03/02/2009	EMAIL NOTIFICATION			

84	03/02/2009	MAIL FINAL REJECTION (PTOL - 326)			
83	02/25/2009	FINAL REJECTION			
82	12/29/2008	DATE FORWARDED TO EXAMINER			
81	11/28/2008	RESPONSE AFTER NON-FINAL ACTION			
80	08/28/2008	ELECTRONIC REVIEW			
79	08/28/2008	EMAIL NOTIFICATION			
78	08/28/2008	MAIL NON-FINAL REJECTION			
77	08/26/2008	NON-FINAL REJECTION			
76	06/20/2008	DATE FORWARDED TO EXAMINER			
75	06/09/2008	RCE- AF PROCESSED			
74	06/20/2008	DATE FORWARDED TO EXAMINER			
73	06/09/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)		33	58
72	06/20/2008	DISPOSAL FOR A RCE / CPA / R129			
71	06/09/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
70	06/09/2008	WORKFLOW - REQUEST FOR RCE - BEGIN			
69	05/27/2008	EMAIL NOTIFICATION			
68	05/27/2008	MAIL ADVISORY ACTION (PTOL - 303)			
67	05/21/2008	ADVISORY ACTION (PTOL-303)			
66	05/07/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
65	05/20/2008	DATE FORWARDED TO EXAMINER			
64	05/07/2008	AMENDMENT AFTER FINAL REJECTION			
63	05/07/2008	REFERENCE CAPTURE ON IDS			
62	05/07/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
61	05/07/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
60	02/08/2008	ELECTRONIC REVIEW			
59	02/07/2008	EMAIL NOTIFICATION			
58	02/07/2008	MAIL FINAL REJECTION (PTOL - 326)			
57	02/04/2008	FINAL REJECTION			
56	11/21/2007	DATE FORWARDED TO EXAMINER			
55	11/07/2007	RESPONSE AFTER NON-FINAL ACTION			
54	08/15/2007	ELECTRONIC REVIEW			
53	08/14/2007	EMAIL NOTIFICATION			
52	08/08/2007	MAIL NON-FINAL REJECTION			
51	08/06/2007	NON-FINAL REJECTION			

50	07/23/2007	DATE FORWARDED TO EXAMINER			
49	04/11/2007	RCE- AF PROCESSED			
48	07/23/2007	DATE FORWARDED TO EXAMINER			
47	04/11/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)		31	37
46	07/23/2007	DISPOSAL FOR A RCE / CPA / R129			
45	04/11/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
44	04/11/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
43	04/03/2007	ELECTRONIC REVIEW			
42	04/01/2007	EMAIL NOTIFICATION			
41	03/30/2007	MAIL ADVISORY ACTION (PTOL - 303)			
40	03/27/2007	ADVISORY ACTION (PTOL-303)			
39	03/23/2007	DATE FORWARDED TO EXAMINER			
38	03/12/2007	AMENDMENT AFTER FINAL REJECTION			
37	12/11/2006	MAIL FINAL REJECTION (PTOL - 326)			
36	12/08/2006	FINAL REJECTION			
35	10/16/2006	MISCELLANEOUS INCOMING LETTER			
34	10/06/2006	DATE FORWARDED TO EXAMINER			
33	10/03/2006	RESPONSE AFTER NON-FINAL ACTION			
32	07/03/2006	MAIL NON-FINAL REJECTION			
31	06/26/2006	NON-FINAL REJECTION			
28	05/25/2006	DATE FORWARDED TO EXAMINER			
27	05/19/2006	RESPONSE TO ELECTION / RESTRICTION FILED			
26	04/19/2006	MAIL RESTRICTION REQUIREMENT			
25	04/17/2006	REQUIREMENT FOR RESTRICTION / ELECTION			
24	03/21/2006	CASE DOCKETED TO EXAMINER IN GAU			
23	03/03/2006	MAIL-PETITION DECISION - GRANTED			
22	05/18/2005	PETITION ENTERED			
21	02/07/2006	DATE FORWARDED TO EXAMINER			
20	01/30/2006	RESPONSE TO ELECTION / RESTRICTION FILED			
19	12/28/2005	MAIL RESTRICTION REQUIREMENT	413		9
18	12/27/2005	REQUIREMENT FOR RESTRICTION / ELECTION			
17	12/08/2005	CASE DOCKETED TO EXAMINER IN GAU			
16	11/05/2005	CASE DOCKETED TO EXAMINER IN GAU			
15	08/24/2005	MISCELLANEOUS INCOMING LETTER			
14	02/02/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			

13	02/02/2004	CLAIMS PTO			
11	12/25/2003	CLEARED BY OIPE CSR			
10	12/19/2003	TRANSFER INQUIRY TO GAU			
9	09/10/2003	371 COMPLETION DATE			
8	11/05/2003	APPLICATION DISPATCHED FROM OIPE			
7	11/05/2003	NOTICE OF DO/EO ACCEPTANCE MAILED			
6	09/10/2003	ADDITIONAL APPLICATION FILING FEES			
5	09/10/2003	INFORMATION DISCLOSURE STATEMENTS			
4	09/10/2003	COPY OF THE INTERNATIONAL PRELIMINARY EXAMINATION REPORT			
3	09/10/2003	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

Back to OASIS | Home page

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : November 8, 2006

TO SPE OF : ART UNIT 3726

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/381054 Patent No.: 7,107,661 B2

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Elisha Evans

Certificates of Correction Branch

703-308-9390 ext. 110

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

DAVID P. BRYANT
SUPERVISORY PATENT EXAMINER
SPE

3726
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6-15-07

TO SPE OF : ART UNIT 1621

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/381054 Patent No.: 7196221

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 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: _____

Yvonne Eyler

SPE

1621

Art Unit

14 AUG 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Motorola, Inc.
Intellectual Property Department
7700 W. Parmer Lane
MD: TX32/PL02
Austin, TX 78729

In re Application of
OLIAEI, Omid
Application No.: 10/381,075
Filing Date: 18 March 2003
Attorney Docket No.: SC0898ET
For: ANALOG-TO-DIGITAL SIGMA-DELTA MODULATOR WITH FIR FILTERS

DECISION UNDER 37 CFR 1.182

This decision is in response to applicant's "Petition to Return Application to Office of Initial Patent Examination in the USPTO" filed on 10 July 2003. This is treated as a petition under 37 CFR 1.182.

BACKGROUND

On 18 March 2003, applicant filed a transmittal letter (PTO-1390) for an express request to immediately begin national examination procedures pursuant to 35 U.S.C. 371(f). The application claimed priority to European patent application No. 02290696.0 filed 20 March 2002 but was not based on an international application.

On 10 July 2003, applicant submitted the instant petition under 37 CFR 1.182 via facsimile which was accompanied by authorization to charge any required fees to Deposit Account No. 50-2117.

08/15/2003 HKAYPAGH 00000121 502117 10381075

01 FC:1460 130.00 DA

DISCUSSION

In the instant petition, applicant requests that the above-identified application be deemed a filing under 35 U.S.C. 111 as "[a]pplicants inadvertently submitted the above referenced application with transmittal form (PTO-1390) rather than the United States Patent Application Transmittal Form under 37 CFR 1.53(b)."

A review of the papers filed 18 March 2003 reveals that a specification, claims and seven sheets of drawings were submitted. A copy of European patent application No. 02290696.0 with a priority date of 20 March 2002 was also included with the papers filed 18 March 2003.

This is sufficient to meet the requirements of a filing under 35 U.S.C. 111(a).

The petition fee of $130.00 has been charged to Deposit Account No. 50-2117 as authorized.

CONCLUSION

Applicant's petition under 37 CFR 1.182 is hereby **GRANTED**.

This application is being forwarded to the Office of Initial Patent Examination (OIPE) for treatment as a filing under 35 U.S.C. 111(a) with a filing date of **18 March 2003** claiming priority to European patent application No. 02290696.0 filed 20 March 2002.

OIPE should remove all references that this is a national stage application and correct all fees.

James Thomson

James Thomson
Attorney Advisor
PCT Legal Office

Tel.: (703) 308-6457

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

MORRISON & FOERSTER LLP
425 MARKET STREET
SAN FRANCISCO CA 94105-2482

COPY MAILED

JUL 31 2007

OFFICE OF PETITIONS

In re Application of	:	
DOGL, et al.	:	
Application No. 10/381,084	:	DECISION ON PETITION
Filed: July 23, 2003	:	TO WITHDRAW
Attorney Docket No. 417202000300	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 22, 2007.

The request is **APPROVED.**

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Stephen C. Durant on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

There is an outstanding Office action mailed December 15, 2006 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: CHRISTIAN DOGL
STIFTGASSE 27/22
VIENNA, AUSTRIA A-1070

cc: ERWIN J. BASKINSKI
BAKINSKI & ASSOCIATES
113 SAN NICOLAS AVENUE
SANTA BARBARA, CA 93109

11 JAN 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

#6 7

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

David M. Carter
Carter, DeLuca, Farrell & Schmidt, LLP
445 Broad Hollow Road-Suite 225
Melville, New York 11747

In re Application of	: DECISION ON
BENSON, Peter R.	:
US Application No.: 10/381,086	:
PCT Application No.: PCT/US01/29927	: PETITION UNDER
Int. Filing Date: 25 September 2001	:
Priority Date: 25 September 2000	:
Attorney's File Reference: 1043-6 PCTUS	: 37 CFR 1.137 (b) and 37 CFR 1.47 (b)
For: METHOD AND SYSTEM FOR PERFORMING ELECTRONIC COMMERICE	

This decision is in response to applicant's "PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137 (b) and "PETITION AND DECLARATION UNDER 37 CFR 1.47(b)" filed 27 October 2004, which requests that the above national stage application be accepted without the signature of inventor Peter R. Benson, and to allow the assignee, ResolveNet (IOM) Limited, to apply for a patent on the same national stage application.

BACKGROUND

On 25 September 2001, applicant filed international application PCT/US01/29927. The international application claims a priority date of 25 September 2000 and designates the United States. The deadline for entry into the United States National Stage was thirty months from the priority date, that is 25 March 2003.

On 15 July 2003, the United Stated Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed and a $65 Surcharge for providing the oath or declaration later than 30 months from the priority date must be furnished. The notification set a two-month time limit in which to respond.

On 15 October 2004, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Abandonment (Form PCT/DO/EO/909) indicating that the application was abandoned for failure to file a complete response to the Notification of Missing Requirements mailed 15 July 2003 within the time period set therein.

On 01 November 2004, applicant filed the present petition under 37 CFR 1.137(b) and 37 CFR 1.47(b).

DISCUSSION

The above-identified application was abandoned on 15 September 2003 for failure to respond to the Notification of Missing Requirements mailed 15 July 2003.

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional delay must be accompanied by: (1) the required reply, (2) the petition fee required by law, (3) a statement that the "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional," and (4) any terminal disclaimer and fee required pursuant to 37 CFR 1.137(c). Applicant has satisfied Items (2)-(4).

In order to comply with the proper response requirement of item (1) above for revival under 37 CFR 1.137(b), applicant submitted the present Petition Under 37 CFR 1.47(b). Under the present circumstances, in order for the response requirement, item (1) above, to be satisfied, the petition to accept the application without the signature of Peter R. Benson must be grantable.

A petition under 37 CFR 1.47(b) must be accompanied by (1) the fee under 37 CFR 1.17(h); (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort; (3) a statement of the last known address of the inventor; (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor; (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application; and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage. The 37 CFR 1.47(b) applicant has satisfied the requirements of items (1), (3), and (5). However, items (2), (4), and (6) have not been satisfied.

As to item (2), Section 409.03(d) of the Manual of Patent Examining Procedure (M.P.E.P.), **Proof of Unavailability or Refusal**, states, in part:

> Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made.
>
> The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as internet searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached should be made part of the statement. The steps taken to locate the whereabouts of the nonsigning inventor should be included statement of facts. It is important that the statement contain facts as opposed to conclusions.
>
> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the

refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.

Proof that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient. When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal.

When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition.

Petitioner asserts that a bona fide effort has been made to obtain Peter R. Benson's cooperation in executing the required documents. Petitioner states that "the undersigned's associate sent Mr. Benson a letter (see Exhibit A) via Federal Express reminding him of his continuing obligation under the assignment to execute and deliver documents required in support of the above-identified patent application." Petitioner further states, "Mr. Benson telephoned the undersigned's associate and stated that he would not sign the document. The associate explained to Mr. Benson that he was under a continuing obligation to sign the document as evidenced by the executed Assignment document (see Exhibit B). Mr. Benson maintained his position stated that he would not sign the Combined Declaration and Power of Attorney." It does not appear that the petitioner has first hand knowledge of all the facts and in order to meet the requirements of 37 CFR 1.47(b) and Section 409.03(d) of the MPEP, a statement of facts is needed from a person (i.e. the undersigned's associate) having first hand knowledge of the facts that a letter was sent to Mr. Benson and knowledge regarding the telephone conversation that took place with Mr. Benson. Furthermore, on page 4 of the "Statement of Facts in Support of Petition Under 37 C.F.R. § 1.47 (b)," Applicant discusses a letter sent to Mr. Benson on March 21, 2003. However, no copy of this letter has been submitted with the petition and no copy of the Federal Express Label has been provided for that March 21, 2003, date.

Regarding item (4) above, the declaration fails to state the relationship of the person who signed the declaration (i.e. Ronnie Colsen) to the inventor, and upon information and belief, the facts which the inventor would have been required to state. See MPEP 1.497 (b)(2).

Regarding item (6) above, note that no proof has been offered to show that filing on behalf of Mr. Benson is necessary to preserve the rights of the parties or to prevent irreparable damage (see MPEP 409.03(g)).

For the reasons stated above, it would not be appropriate to accept the application without the signature of Peter Benson under 37 CFR 1.47 (b)

CONCLUSION

The petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

The petition under 37 CFR 1.137(b) is **DISMISSED** without prejudice and the application remains **ABANDONED**.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(b)." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Ula Ruddock

Ula Ruddock
PCT Legal Administration Detailee
PCT Special Programs Office
Telephone: 571-272-6094

Leonard Smith
PCT Legal Examiner
PCT Legal Office

12 AUG 2005

#9

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

David M. Carter
Carter, DeLuca, Farrell & Schmidt, LLP
445 Broad Hollow Road - Suite 225
Melville, New York 11747

In re Application of BENSON, Peter R. Application No.: 10/381,086 PCT No.: PCT/US01/29927 Int. Filing Date: 25 September 2001 Priority Date: 25 September 2000 Attorney Docket No.: 1043-6PCTUS For: METHOD AND SYSTEM FOR PERFORMING ELECTRONIC COMMERCE	: : : : : : : :	DECISION ON PETITION UNDER 37 CFR 1.47(b)

This decision is in response to applicant's "Renewed Petition under 37 CFR 1.47(b)" filed 10 March 2005, which is being treated as a renewed Petition for Revival of an Application for Patent Abandoned Unintentionally under 37 CFR 1.137 (b) and Petition under 37 CFR 1.47(b). Applicant requests that the above national stage application be accepted without the signature of inventor Peter R. Benson.

BACKGROUND

On 25 September 2001, applicant filed international application PCT/US01/29927. The international application claims a priority date of 25 September 2000 and designates the United States. The deadline for entry into the United States National Stage was thirty months from the priority date, that is 25 March 2003.

On 15 July 2003, the United Stated Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed and a $65 Surcharge for providing the oath or declaration later than 30 months from the priority date must be furnished. The notification set a two-month time limit in which to respond.

On 15 October 2004, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Abandonment (Form PCT/DO/EO/909) indicating that the application was abandoned for failure to file a complete response to the Notification of Missing Requirements mailed 15 July 2003 within the time period set therein.

On 01 November 2004, applicant filed petitions under 37 CFR 1.137(b) and 37 CFR 1.47(b). In a decision dated 11 January 2005, applicant's petitions were dismissed without prejudice.

On 10 March 2005, applicant filed present petitions under 37 CFR 1.137(b) and 37 CFR 1.47(b).

DISCUSSION

The above-identified application was abandoned on 15 September 2003 for failure to respond to the Notification of Missing Requirements mailed 15 July 2003.

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional delay must be accompanied by: (1) the required reply, (2) the petition fee required by law, (3) a statement that the "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional," and (4) any terminal disclaimer and fee required pursuant to 37 CFR 1.137(c). Applicant has satisfied Items (2)-(4).

In order to comply with the proper response requirement of item (1) above for revival under 37 CFR 1.137(b), applicant submitted the present Petition Under 37 CFR 1.47(b). Under the present circumstances, in order for the response requirement, item (1) above, to be satisfied, the petition to accept the application without the signature of Peter R. Benson must be grantable.

A petition under 37 CFR 1.47(b) must be accompanied by (1) the fee under 37 CFR 1.17(h); (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort; (3) a statement of the last known address of the inventor; (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor; (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application; and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage.

A review of the materials submitted with the renewed petition reveals that applicant has now submitted materials which, taken in combination with the previous submissions, satisfy all the requirements for a grantable petition under 37 CFR 1.47(b).

Accordingly, the petition to revive under 37 CFR 1.137(b) is granted and it is appropriate to accord the national stage application status under 37 CFR 1.47(b).

CONCLUSION

The petition under 37 CFR 1.137(b) is **GRANTED**.

The petition under 37 CFR 1.47(b) is **GRANTED**.

The application will be given an international filing date of 25 September 2001 under 35 U.S.C. 363, and a date of **10 March 2005** under 35 U.S.C. 371(c).

As provided in 37 CFR 1.47(b), a notice of the filing of this application will be forwarded to the nonsigning inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(b) will be published in the Official Gazette.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision.

Anthony Smith

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
Fax: (571) 273-0459

12 AUG 20

UNITED STATES PATENT AND TRADEMARK OFFICE

#9

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Peter Benson
23904A DeVille Way
Malibu, CA 90265

In re Application of
BENSON, Peter R.
Application No. 10/381,086
PCT No.: PCT/US01/29927
Int. Filing Date: 25 September 2001
Priority Date: 25 September 2000
Attorney Docket No.: 1043-6PCTUS
For: METHOD AND SYSTEM FOR PERFORMING ELECTRONIC COMMERCE

Dear Mr. Benson:

You are named as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(b) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3298
Facsimile: (571) 273-0459

Counsel of Record:
David M. Carter
Carter, DeLuca, Farrell & Schmidt, LLP
445 Broad Hollow Road - Suite 225
Melville, New York 11747

10 DEC 2003

#7

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Robert M Haroun
Sofer & Haroun
317 Madison Avenue Suite 910
New York, NY 10017

In re Application of CAMOZZI et al. Application No.: 10/381,093 PCT No.: PCT/IT01/00067 Int. Filing: 15 February 2001 Priority Date: 03 October 2000 Attorney Docket No.: 601-064 For: MULTI-AXIS LINEAR MOTOR MACHINE TOOL	DECISION ON PETITION UNDER 37 CFR 1.181

This is a decision on applicants' "COMMUNICATION" in response to the Notification of Missing Requirements" filed in the United States Patent and Trademark Office (USPTO) via facsimile on 24 November 2003. The response is being treated as a petition under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 20 March 2003, applicants filed a Transmittal Letter to the United States Designated/Elected Office (DO/EO/US) Concerning a Filing Under 35 U.S.C. 371 (Form PTO 1390) along with, *inter alia*, the basic national fee.

On 18 June 2003, applicants filed a declaration executed by the inventors, in compliance with 37 CFR 1.497(a) & (b) along with authorization to charge the $130 surcharge for filing the declaration after the 30 month period to applicant's deposit account.

On 30 September 2003, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants indicating that an oath or declaration in compliance with 37 CFR 1.497 was required.

On 22 October 2003, in response to the Notification of Missing Requirements, an alleged copy of the USPTO mail room date-stamped postcard indicating that an executed declaration was filed on 18 June 2003 was filed. However, the submission was not signed by the attorney of record as required by 37 CFR 10.18 and was not acceptable.

On 24 November 2003, in response to the USPTO communication mailed on 20 November 2003, applicant filed a copy of the declaration, assignment and an itemized USPTO date-stamped postcard indicating that an executed declaration was filed on 18 June 2003.

DISCUSSION

The original declaration filed on 18 June 2003 is not located in the application file. A review of the finance records for 10/381,093 indicates that the $130 surcharge for filing the

declaration after the thirty month period was not paid; the surcharge will be charged to applicant's deposit account per their authorization.

As stated in section 503 of the Manual of Patent Examining Procedure (8th Ed., August 2001)(MPEP):

> A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

A review of the USPTO date-stamped, itemized postcard receipt indicates that the combined declaration and power of attorney was deposited with the USPTO on 18 June 2003.

The evidence submitted is sufficient to establish that a declaration this application was received in the USPTO on 18 June 2003. The communication filed 24 November 2003 includes a copy of the executed declaration. Accordingly, it is appropriate to accept the copy of the declaration as a replacement for the missing original declaration with a deposit date of 18 June 2003. The evidence submitted by applicant, the postcard receipt date stamped by the USPTO, is sufficient to overcome the *prima facie* evidence of the application file itself.

A review of the declaration reveals that the declaration identifies the inventors, and states the citizenship and mailing address of the inventor. Thus, the declaration is acceptable and the requirements of 37 CFR 1.497 are met.

CONCLUSION

The petition under 37 CFR 1.181 is **GRANTED**.

The copy of the declaration originally submitted on 18 June 2003 and resubmitted on 24 November 2003 is acceptable and meets the requirements of 37 CFR 1.497.

The application will be forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing. The 35 U.S.C. 371 date is **18 June 2003.**

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (703) 306-5467
Facsimile: (703) 308-6459

09 MAR 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

ELI LILLY AND COMPANY
Patent Division/JCD
P.O. Box 6288
Indianapolis, IN 46206-6288

In re Application of
GLASEBROOK, et al.
Application No.: 10/381,094
PCT No.: PCT/US01/27737
Int. Filing Date: 28 September 2001
Priority Date: 13 October 2000
Attorney Docket No.: X-14089
For: METHODS OF USING A HUMAN IL-17-RELATED POLYPEPTIDE TO TREAT DISEASE

DECISION

This decision is in response to applicants' "Transmittal For Supplemental Declaration" filed on 17 October 2003.

BACKGROUND

On 19 March 2003, applicants filed materials initiating this national stage application, including payment of the basic national fee and an executed declaration.

On 10 June 2003, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification Of Missing Requirements" (Form PCT/DO/EO/905) indicating that a proper declaration and the $130 surcharge for filing the declaration later than thirty months after the priority date were required. The Notification stated that the filed declaration was defective because the third inventor's name on the declaration, Christy Michelle Love (nee Newton), did not correspond to this inventors name on the international application, Christy Michelle Newton. The Notification set forth an extendable two month time limit for response.

On 15 August 2003, the DO/EO/US mailed a "Notification To Comply With Requirements For Patent Applications Containing Nucleotide And/Or Amino Acid Sequence Disclosures" (Form PCT/DO/EO/922) requiring submission of additional sequence listing materials. The Notification set forth an extendable two month time limit for response. The Notification makes no reference to the previously mailed Notification Of Missing Requirements or the separate application requirements discussed therein (i.e., a proper declaration and surcharge payment).

On 17 October 2003, applicant filed a "Response To Notice To Comply With Requirements For Patent Applications Containing Nucleotide Sequence And/Or Amino Acid Sequence Disclosures" with accompanying materials.

On 17 October 2003, applicants filed the "Transmittal Letter For Supplemental Declaration" considered herein, accompanied by a supplemental declaration executed by applicant Christy Michelle Newton under such name. The submission authorizes a charge for the required $130 surcharge. The submission argues that applicants should not be required to be extension fees because the Notification Of Missing Requirements was purportedly withdrawn by the USPTO.

DISCUSSION

The application file contains no indication that the Notification Of Missing Requirements mailed 10 June 2003 has been vacated or withdrawn. It is noted that, in recognition of problems of accuracy, memory and perception, 37 CFR § 1.2 states: "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." Pursuant to 37 CFR 1.2, any purported withdrawal of the Notification Of Missing Requirements made during a telephone conversation, without support in the U.S. application file, is unsupportable. The subsequent mailing of the "Notification To Comply With Requirements For Patent Applications Containing Nucleotide And/Or Amino Acid Sequence Disclosures" addressed only the sequence listing requirements, and it therefore did not affect the deadline for the declaration and surcharge. Accordingly, the Notification Of Missing Requirements mailed 10 June 2003 remains in effect with respect to the declaration and surcharge required.

Based on the authorization contained in the present petition, Deposit Account No. 05-0840 will be charged the fee for the three month extension of time required for the attached declaration to be considered a timely response to the Notification Of Missing Requirements. Applicant will also be charged the $130 surcharge.

The supplemental declaration, in combination with the previously filed declaration, is accepted as complying with 37 CFR 1.497. The name of record for the third inventor remains Christy Michelle Newton, as set forth in the supplemental declaration and the published international application. Should applicant desire to change the name of record to her married name, a petition under 37 CFR 1.182 is required.

CONCLUSION

The supplemental declaration filed 17 October 2003, in combination with the previously filed declaration, is accepted under 37 CFR 1.497.

Deposit Account No. 05-0840 will be charged the $950 fee for a three month extension of time and the $130 surcharge.

The application is being forwarded to the National Stage Processing Branch of the Office Of PCT Operations for further processing. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 17 October 2003.

Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
Telephone: (703) 308-6155
Facsimile: (703) 308-6459

30 SEP 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

#3

Richard A Nebb
Dergosits & Noah
Four Embarcadero Center
Suite 1450
San Francisco CA 94111

In re Application of	:	
SCHAMBACH et al.	:	
Application No.: 10/381,109	:	DECISION ON
PCT No.: PCT/EP01/03679	:	
Int. Filing Date: 30 March 2001	:	PETITION UNDER
Priority Date: 30 March 2000	:	
Attorney Docket No.: 376.14	:	37 CFR 1.137(b)
For: CACHE TIME DETERMINATION	:	

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 19 March 2003.

BACKGROUND

On 30 March 2001, applicant filed international application PCT/EP01/03679, which designated the United States and claimed a priority date of 30 March 2000. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 04 October 2001. A Demand for international preliminary examination, in which the United States was elected, was filed on 08 November 2001, which was not within nineteen months from the priority date. Accordingly, the twenty-month period for paying the basic national fee in the United States expired at midnight on 30 November 2001.

On 19 March 2003, applicant filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee, a declaration of inventors, and the instant "PETITION FOR REVIVAL OF AN INTERNATIONAL APPLICATION FOR PATENT DESIGNATING THE U.S. ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)".

DISCUSSION

Petition Under 37 CFR 1.137(b)

A petition to revive the present application under 37 CFR 1.137(b) must include:
(1) The required reply;

(2) The petition fee;
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional.

As to item (1), applicant submitted the basic national fee on 19 March 2003.

As to item (2), applicant submitted the petition fee on 19 March 2003.

As to item (3), the required statement has been provided.

A review of the application file reveals that, with the filing of the present petition and accompanying papers, a proper response has been submitted and all of the requirements of 37 CFR 1.137(b) for revival have been satisfied and revival is therefore appropriate.

Declaration of Inventors

The declaration of inventors filed 19 March 2003 fails to comply with 37 CFR 1.497(a)-(b). The declaration does not list the proper inventorship. Also, at least parts of the declaration are illegible.

37 CFR 1.41(a)(4) states:

> The inventorship of an international application entering the national stage under 35 U.S.C. 371 is that inventorship set forth in the international application, which includes any change effected under PCT Rule 92bis. See § 1.497(d) and (f) for filing an oath or declaration naming an inventive entity different from the inventive entity named in the international application, or if a change to the inventive entity has been effected under PCT Rule 92bis subsequent to the execution of any declaration filed under PCT Rule 4.17(iv) (§ 1.48(f)(1) does not apply to an international application entering the national stage under 35 U.S.C. 371).

The declaration filed 19 March 2003 does not list the proper inventorship. A Form PCT/IB/306 (NOTIFICATION OF THE RECORDING OF A CHANGE) from the International Bureau indicating that Stephan Schambach has been added as an inventor does appear in the file. However, the declaration includes two additional inventors (Frank Gessner and Christian Mxxxxxxx (the last name of this inventor is illegible)) who are not listed on the international application and for whom no Form PCT/IB/306 is in the application file. The declaration also fails to include an inventor (Daniel Schultz) who is listed on the international application. No Form PCT/IB/306 appears in the application file for this inventor either. Thus, the inventorship in the national stage is the inventorship set forth in the international application with the addition of Stephan Schambach. Consequently, the declaration filed 19 March 2003 is not sufficient.

CONCLUSION

The petition under 37 CFR 1.137(b) is **GRANTED** for the reasons set forth above.

Applicants are required to file a declaration in compliance with 37 CFR 1.497(a)-(b) naming the proper inventive entity, or a proper change of inventorship under 37 CFR 1.497(d), or the appropriate Form PCT/IB/306s indicating a change effected under PCT Rule 92bis corresponding to the declaration filed 19 March 2003, within **TWO (2) MONTHS** from the date of mailing of this decision. Also, the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date is required. Extensions of time may be obtained under 37 CFR 1.136(a). **Failure to timely file a proper reply will result in abandonment of the application.**

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (703) 308-2066
Facsimile: (703) 308-6459

30 MAR 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.go

Richard A Nebb
Dergosits & Noah
Four Embarcadero Center
Suite 1450
San Francisco CA 94111

In re Application of	:	
SCHAMBACH et al.	:	
Application No.: 10/381,109	:	DECISION ON
PCT No.: PCT/EP01/03679	:	
Int. Filing Date: 30 March 2001	:	PETITION UNDER
Priority Date: 30 March 2000	:	
Attorney Docket No.: 376.14	:	37 CFR 1.497(d)
For: CACHE TIME DETERMINATION	:	

This decision is in response to applicant's submission filed via facsimile transmission on 05 March 2004.

BACKGROUND

On 30 March 2001, applicant filed international application PCT/EP01/03679, which designated the United States and claimed a priority date of 30 March 2000. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 04 October 2001. A Demand for international preliminary examination, in which the United States was elected, was filed on 08 November 2001, which was not within nineteen months from the priority date. Accordingly, the twenty-month period for paying the basic national fee in the United States expired at midnight on 30 November 2001.

On 19 March 2003, applicant filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee, a declaration of inventors, and the instant "PETITION FOR REVIVAL OF AN INTERNATIONAL APPLICATION FOR PATENT DESIGNATING THE U.S. ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)".

On 30 September 2003, a decision was mailed granting applicant's petition under 37 CFR 1.137(b). The decision also noted that the declaration of inventors filed 19 March 2003 failed to comply with 37 CFR 1.497(a)-(b) and that a declaration in compliance with 37 CFR 1.497(a)-(b) naming the proper inventive entity, or a proper change of inventorship under 37 CFR 1.497(d), or the appropriate Form PCT/IB/306s indicating a change effected under PCT Rule 92bis corresponding to the declaration filed 19 March 2003 was required. The decision set a two-month extendable time period for reply.

On 05 March 2004, applicants filed the instant submission via facsimile transmission, which was accompanied by, *inter alia*, a copy of a petition under 37 CFR 1.497(d), a copy of a declaration of inventors, a copy of a "declaration of omitted inventors", and a copy of a date-stamped postcard receipt.

DISCUSSION

Petition Under 37 CFR 1.181

Applicants have provided sufficient evidence to establish that on 03 December 2003 applicants filed the petition under 37 CFR 1.497(d), the declaration of inventors, and the accompanying papers. The proof is in the form of the copy of the receipt for the above-identified application which bears a United States Patent and Trademark Office (USPTO) date stamp of 03 December 2003 and which itemizes, *inter alia*, the petition under 37 CFR 1.497(d) and the declaration of inventors, and identifies the above-captioned docket number and application number. Further, practitioner states that the copy of the papers filed 05 March 2004 are true copies of the papers originally filed 03 December 2003. Therefore, in view of the date-stamped receipt and practitioner's statement, the papers received on 05 March 2004 may properly be accepted as originally received in the USPTO on 03 December 2003.

Petition Under 37 CFR 1.497(d)

37 CFR 1.497(d), provides:

> (d) If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, or if a change to the inventive entity has been effected under PCT Rule 92bis subsequent to the execution of any oath or declaration which was filed in the application under PCT Rule 4.17(iv) or this section and the inventive entity thus changed is different from the inventive entity identified in any such oath or declaration, applicant must submit:
>
> (1) A statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part;
>
> (2) The processing fee set forth in Sec. 1.17(i); and
>
> (3) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see Sec. 3.73(b) of this chapter); and
>
> (4) Any new oath or declaration required by paragraph (f) of this section.

Applicants have satisfied items (1) and (2).

As to item (4), a new declaration is not required by 37 CFR 1.497(f) in the instant situation.

Applicants have not satisfied item (3). No mention is made in the petition regarding whether an assignment has been executed. If an assignment has been executed, the written consent of the assignee is required. See MPEP § 324 for a proper showing under 37 CFR 3.73(b).

9A29

The surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date has been charged to Deposit Account 04-0822.

CONCLUSION

The petition under 37 CFR 1.497(d) is **DISMISSED** without prejudice for the reasons set forth above.

If reconsideration on the merits of this petition is desired, a proper reply must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.497(d)." No additional petition fee is required.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (703) 308-2066
Facsimile: (703) 308-6459

28 JUL 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.go

Richard A Nebb
Dergosits & Noah
Four Embarcadero Center
Suite 1450
San Francisco CA 94111

In re Application of	:	
SCHAMBACH et al.	:	
Application No.: 10/381,109	:	DECISION ON
PCT No.: PCT/EP01/03679	:	
Int. Filing Date: 30 March 2001	:	PETITION UNDER
Priority Date: 30 March 2000	:	
Attorney Docket No.: 376.14	:	37 CFR 1.497(d)
For: CACHE TIME DETERMINATION	:	

This decision is in response to applicant's "RENEWED PETITION UNDER 37 CFR 1.497(d)" filed via facsimile transmission on 27 May 2004.

BACKGROUND

On 30 March 2001, applicant filed international application PCT/EP01/03679, which designated the United States and claimed a priority date of 30 March 2000. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 04 October 2001. A Demand for international preliminary examination, in which the United States was elected, was filed on 08 November 2001, which was not within nineteen months from the priority date. Accordingly, the twenty-month period for paying the basic national fee in the United States expired at midnight on 30 November 2001.

On 19 March 2003, applicant filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee, a declaration of inventors, and the instant "PETITION FOR REVIVAL OF AN INTERNATIONAL APPLICATION FOR PATENT DESIGNATING THE U.S. ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)".

On 30 September 2003, a decision was mailed granting applicant's petition under 37 CFR 1.137(b). The decision also noted that the declaration of inventors filed 19 March 2003 failed to comply with 37 CFR 1.497(a)-(b) and that a declaration in compliance with 37 CFR 1.497(a)-(b) naming the proper inventive entity, or a proper change of inventorship under 37 CFR 1.497(d), or the appropriate Form PCT/IB/306s indicating a change effected under PCT Rule 92bis corresponding to the declaration filed 19 March 2003 was required. The decision set a two-month extendable time period for reply.

On 05 March 2004, applicants filed a submission via facsimile transmission, which was accompanied by, *inter alia*, a copy of a petition under 37 CFR 1.497(d), a copy of a declaration of inventors, a copy of a "declaration of omitted inventors", and a copy of a date-stamped postcard receipt.

On 30 March 2004, a decision was mailed dismissing applicants' petition under 37 CFR 1.497(d) without prejudice. Specifically, it was noted that no mention of whether an assignment had been executed was made in the petition and that if an assignment had been executed, the written consent of the assignee was required.

On 27 May 2004, applicant filed the instant "RENEWED PETITION UNDER 37 CFR 1.497(d)".

DISCUSSION

37 CFR 1.497(d), provides:

> (d) If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, or if a change to the inventive entity has been effected under PCT Rule 92bis subsequent to the execution of any oath or declaration which was filed in the application under PCT Rule 4.17(iv) or this section and the inventive entity thus changed is different from the inventive entity identified in any such oath or declaration, applicant must submit:
> (1) A statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part;
> (2) The processing fee set forth in Sec. 1.17(i); and
> (3) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see Sec. 3.73(b) of this chapter); and
> (4) Any new oath or declaration required by paragraph (f) of this section.

As noted in the decision mailed 30 March 2004, applicants have satisfied items (1) and (2). As also noted in that decision, as to item (4), a new declaration is not required by 37 CFR 1.497(f) in the instant situation.

As to item (3), the renewed petition states "no assignment was ever executed or recorded in this application" This statement has been construed as meaning that the "an assignment has not been executed by any of the original named inventors." If this interpretation is incorrect, applicant must *immediately* notify the Office of PCT Legal Administration of such fact.

CONCLUSION

The petition under 37 CFR 1.497(d) is **GRANTED** for the reasons set forth above.

Please direct further correspondence with respect to this matter to Mail Stop PCT,

Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application in accordance with this decision, including processing the application in the name of Stephan Schambach, Frank Gessner, Ulrike Muller, Christian Mallwitz, Marcus Nowotny, Daniel Doubleday, Roland Fassauer, Daniel Schultz, and Roy Sarnoch as inventors.

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (703) 308-2066
Facsimile: (703) 308-6459

UNITED STATES PATENT and TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

0 2 SEP 2003

Steven L. Highlander, Esq.
FULBRIGHT & JAWORSKI, LLP
600 Congress Ave., Suite 2400
Austin, Texas 78701

In re Application of	DECISION ON
Niesor et al	
Application No.: 10/381,111	
PCT No.: PCT/EP01/08980	PETITION UNDER
Int. Filing Date: 02 August 2001	
Priority Date: 04 August 2000	
Attorney's Docket No.: ILEX:068US	37 CFR 1.137(b)
For: METHODS FOR INDUCING	
APOLIPORPROTEIN E SECRETION	

This decision is in response to applicants' "Petition For Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)," filed on 20 March 2003.

BACKGROUND

On 02 August 2001, this international application was filed, claiming an earliest priority date of 04 August 2000. A copy of the intentional application was transmitted on 14 February 2002 to the USPTO from the International Bureau.

A Demand electing the United States was filed in this international application. Accordingly, the deadline for paying the basic national fee in the United States under 35 U.S.C. 371 and 37 CFR 1.495 was 04 February 2003. This international application became abandoned with respect to the United States at midnight on 04 February 2003 for failure to pay the required basic national fee.

On 20 March 2003, applicants filed the instant petition under 37 CFR 1.137(b) and Transmittal letter for entry into the national stage in the United States, which was accompanied by the petition fee, and basic national fee. No executed declaration or oath was submitted at such time.

DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a

continuing application; (2) the petition fee as set forth in § 1.17(m); and (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Petitioner has provided: (1) the proper reply by submitting the basic national filing fee, (2) the petition fee set forth in §1.17(m) and (3) the proper statement under 137(b)(3). In this application, no terminal disclaimer is required.

Accordingly, the petition is deemed to satisfy requirements (1), (2), (3), and (4) under 37 CFR 1.137(b).

DECISION

The petition under 37 CFR 1.137(b) is **GRANTED**.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing under 35 U.S.C. 371.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Telephone: (703) 308-6312
Facsimile: (703) 308-6459

06 JUL 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

Steven L. Highlander
FULBRIGHT & JAWORSKI, LLP
600 Congress Ave.
Suite 2400
Austin, Texas 78701

In re Application of	:	
NIESOR et al.	:	DECISION ON
Application No.: 10/381,111	:	
PCT No.: PCT/EP01/08980	:	PETITION
Int. Filing Date: 02 August 2001	:	
Priority Date: 04 August 2000	:	UNDER 37 CFR 1.47(a)
Attorney's Docket No.: ILEX:068US	:	
For: METHODS FOR INDUCING	:	
APOLIPOPROTEIN E SECRETION	:	

This decision is in response to applicants' PETITION UNDER 37 CFR 1.47(a), filed 12 January 2004 to accept the above-identified national stage application without the signature of one of the co-inventors, Ane Perez. Applicants' payment of the petition fee as set forth in 37 CFR 1.17 is being properly construed a petition fee payment pursuant to 37 CFR 1.17(h). The petition is **Dismissed**.

BACKGROUND

On 02 August 2001, applicants filed international application PCT/EP01/08980, claiming a priority date of 04 August 2000 and designating the United States.

On 04 March 2002, applicants filed a Demand for international preliminary examination, in which the United States was elected. Accordingly, the thirty month period for paying the basic national fee in the United States in accordance with 37 CFR 1.495(b), expired on 04 February 2003.

On 20 March 2003, applicants filed a petition under 37 CFR 1.137 (b) to revive the application from abandonment. A transmittal letter (PTO form 1390) was filed for entry into the national stage in the United States which was accompanied by, *inter alia*, the requisite basic national fee.

On 02 September 2003, the petition to revive the application was granted by the PTO.

On 10 September 2003, the United States Designated/Elected Office (DO/EO) mailed a

Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an Oath or Declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by International application number and international filing date, must be submitted within two months of the date of the Notification or by 32 months from the priority date, whichever is later. The period for response was set to expire on 10 November 2003, two months from the mail date of the Notification

On 12 January 2004, Applicants filed the instant petition under 37 CFR 1.47(a) to accept the above-identified national application without the signature of co-inventor Ane Perez, which was accompanied by, *inter alia*,:, a declaration signed by all of the inventors except for Ane Perez, a processing fee for the petition, a request and a fee for a one month extension of time, and supporting evidence presented with the petition. The evidence consists of (1) an affidavit by a Patent Prosecution Assistant, Julie Erwin, at the Fulbright & Jaworski and (2) an affidavit by an Associate Counsel Intellectual Property, Stephen J. Moloney, employed at ILEX Products Inc, which was an affiliate of Ilex Oncology Research SA on July 31, 2001. Ilex Oncology Research SA became Ilex Oncology Research SARL on December 18, 2003. The petition identified the last known address for the non-signing inventor, Ane Perez.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the nonsigning joint inventor. Applicants have satisfied items (1), (3), and (4) above.

Regarding item (2) above, MPEP 409.03(d) (August 2001) states in part:

> Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made.
>
> The fact that a nonsigning inventor is on vacation or out of town and is therefore temporarily unavailable to sign the declaration is not an acceptable reason for filing under 37 CFR 1.47.
>
> The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as internet searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached should be made part of the statement. The steps taken to locate the whereabouts of the nonsigning inventor should be included statement

of facts. It is important that the statement contain facts as opposed to conclusions.

The affidavit of Julie Erwin states that Julie Erwin had been in contact on several occasions with employees of Ilex Oncology SARL, former employer of Ane Perez, and had inquired on these occasions as to the availability of Ane Perez to sign the Inventors' Declaration. Julie Erwin was informed that Ane Perez was traveling, and was therefore unreachable for signature and would be unreachable in the near future.

The affidavit of Stephen J. Moloney states that the employment of Ane Perez with Ilex Oncology Research SARL was terminated on September 23, 2003 and that Ane Perez is no longer employed with Ilex Oncology Research SARL. The affidavit further states that Ane Perez is currently traveling overseas for an indeterminate time, and therefore is unavailable for signature of the Inventors' Declaration and will not be available in the near future. Additionally, the affidavit states that it is believed that no employee at Ilex Products Inc. nor at Oncology Research SARL has an address or contact information at which Ane Perez can be currently contacted.

The Petition evidence provided under 37 CFR 1.47(a) is insufficient to demonstrate the "factual proof" required under Rule 47(a). Statements made in the affidavits of Julie Erwin and Stephen J. Moloney, which state that Ane Perez is unreachable or unavailable for signature of the Inventors' Declaration, are conclusions not based on demonstrated facts. Although the nonsigning inventor may be traveling overseas, this is insufficient to conclude that the inventor is unavailable and unreachable. There is nothing in the affidavits which demonstrates a diligent effort was made to contact the inventor. For example, there is no factual evidence that a written communication was mailed to the inventor's last known address. Also, there is no factual evidence that there was an effort to determine if the inventor left a forwarding address. Moreover, there is no documentary evidence that efforts were made to determine the location of the inventor in other ways, such as through an internet search, through a search of a phone book local to the previous known address, and through an active effort to contact family or relatives of the inventor for information regarding the inventor's new address or a phone number where the inventor can be reached.

Applicants provide no copies of documentary evidence, such as internet searches, certified mail return receipts, cover letters of instructions, telegrams, etc. which, in concert with the affidavits, would demonstrate factual proof that a diligent effort to search for the nonsigning inventor had been made.

Applicants have paid for a one-month extension of time, which would extend the time for response to the Notification of Missing Requirements to 10 December 2003. Therefore, an additional month of extension is required for the response on 12 January 2004.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.47(a) is DISMISSED, without

prejudice.

In view of the authorization given by applicants to charge additional fees to Deposit Account 50-1212, the amount of $145 has been charged to the account for extending the time in which to respond to 12 January 2004.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Any request for reconsideration should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required. Failure to timely submit the proper reply will result in ABANDONMENT. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to Mail Stop PCT, Commissioner of Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, VA 22313-1450, with the contents of the letter marked to the attention of the PCT Legal Office.

Boris Milef
PCT Legal Examiner
PCT Legal Administration

Jimmy G. Foster
Detailee
PCT Legal Administration

Telephone: (703) 308-1315
Facsimile: (703) 308-6459

29 JUN 2005

UNITED STATES PATENT and TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Steven L. Highlander
FULBRIGHT & JAWORSKI, LLP
600 Congress Ave.
Suite 2400
Austin, Texas 78701

In re Application of	:	DECISION ON RENEWED
NIESOR et al.	:	
PCT No.: PCT/EP01/08980	:	
Application No.: 10/381,111	:	PETITION UNDER
Int. Filing Date: 02 August 2001	:	
Priority Date: 04 August 2000	:	
Attorney's Docket No.: ILEX:068US	:	37 CFR 1.47(a)
For: METHODS FOR INDUCING	:	
APOLIPOPROTEIN E SECRETION	:	

This decision is in response to applicants' "RENEWED PETITION UNDER TO 37 CFR 1.47(a)" submitted on 03 February 2005 in response to a decision by this Office dated 06 July 2004.

BACKGROUND

The decision by this Office dated 06 July 2004 indicated that requirement (2) under 37 CFR 1.47(a) had not been satisfied.

On 03 February 2005, applicants filed this renewed petition accompanied, inter alia, an executed declaration by Anne Perez.

DISCUSSION

The renewed petition states subsequent to the date of the Decision, the undersigned was able to determine that Ms. Perez was available to execute a declaration for the instant application.

CONCLUSION

The petition under 37 CFR 1.47(a) is **MOOT**. However, for the reason below, the application may not enter into national stage processing at this time.

The declaration is defective because the second set of declaration only lists Anne Perez and not the rest of the inventors as required under 37 CFR 1.63(a) (each inventor must be identified). A composite declaration requires that the declaration must be complete and identify each inventor in each set of declarations provided. Therefore, each composite declaration must

be a complete declaration with the proper statements and the names of each inventor even though each set of declarations may not have all the signatures of the inventors on a it. Accordingly, a proper declaration must consist of individual complete sets of declarations that taken as a whole would have all the required signatures.

A proper response must be filed within ONE (1) MONTH time period from the mail date of this notification. Failure to timely respond will result in the abandonment of the application.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the office of PCT Legal Administration.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Tel: (571) 272-3276
Fax: (571) 273-0459

03 AUG 2005

#12

UNITED STATES PATENT and TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Steven L. Highlander
FULBRIGHT & JAWORSKI, LLP
600 Congress Ave.
Suite 2400
Austin, Texas 78701

In re Application of	DECISION ON RENEWED
NIESOR et al.	
PCT No.: PCT/EP01/08980	
Application No.: 10/381,111	PETITION UNDER
Int. Filing Date: 02 August 2001	
Priority Date: 04 August 2000	
Attorney's Docket No.: ILEX:068US	37 CFR 1.47(a)
For: METHODS FOR INDUCING	
APOLIPOPROTEIN E SECRETION	

This decision is in response to applicants' "RESPONSE TO DECISION ON RENEWED PETITION UNDER TO 37 CFR 1.47(a)" submitted on 22 July 2005 in response to a decision by this Office dated 29 June 2005.

BACKGROUND

The decision by this Office dated 29 June 2005 indicated that the petition under 37 CFR 1.47(a) was moot since Ms. Perez was available to execute a declaration. However, applicants had submitted a defective composite declaration.

DISCUSSION

The renewed petition has been provided with a proper composite declaration that is signed by Ms. Perez, who was available to execute a declaration for the instant application.

CONCLUSION

The petition under 37 CFR 1.47(a) is **MOOT**.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing consistent with this decision. The 35 USC 371(c)(1), (c)(2), and (c)(4) date of this application is **22 July 2005.**

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Tel: (571) 272-3276
Fax: (571) 273-0459

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

JOSEPH S TRIPOLI
THOMSON MULTIMEDIA LICENSING INC
POST OFFICE BOX 5312
PRINCETON NJ 08543-5312

COPY MAILED

MAR 18 2008

OFFICE OF PETITIONS

In re Application of
David John Weaver et al.
Application No. 10/381,114
Filed: March 21, 2003
Attorney Docket No.: **PU000105**

ON PETITION

This is a decision on the petition filed January 23, 2008 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 July 18, 2006. 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 October 19, 2006. Accordingly, a Notice of Abandonment was mailed January 24, 2007.

This matter is being referred to Technology Center 2182 for appropriate action on the amendment filed January 23, 2008.

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)).

11 SEP 2003

#3

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

SYNGENTA CROP PROTECTION, INC.
Patent and Trademark Dept.
410 Swing Road
Greensboro, NC 27409

In re Application of
CHOW, Victor *et al*
U.S. Application No.: 10/381,119
PCT No.: PCT/EP00/09134
Int. Filing Date: 18 September 2000
Priority Date: 20 September 1999
Attorney Docket No.: PH/5-30926A
For: PESTICIDE FORMULATIONS CONTAINING PHOSPHATE ESTER SURFACTANT . . .

DECISION ON PETITION FOR REVIVAL UNDER 37 CFR 1.137(b)

Applicants' "Petition for Revival of an International Application for Patent Designating the US Abandoned Unintentionally Under 37 CFR 1.137(b)" filed with the national stage papers on 21 March 2003 is hereby **GRANTED** as follows:

The basic national fee and petition fee have been paid. Applicants state that "[t]he entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" as required by 37 CFR 1.137(b)(3). A terminal disclaimer is not required in this case. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

A review of USPTO records indicate that two different national stage applications were processed for this international application. Therefore, fees for two cases were charged, *i.e.*, U.S. application No. 10/381,119 and U.S. application No. 10/381,239. The duplicate fees have been refunded to Deposit Account No. 50-1676.

U.S. application No. 10/381,239 is no loger an active U.S. application.

Please use U.S. application No. 10/381,119 for all future correspondence with this national stage application of PCT/EP00/09134.

The declaration filed with the national stage papers complies with 37 cFR 1.497(a) and (b). The surcharge fee of $130.00 for filing the declaration later than 30 months from the earliest claimed priority date pursuant to 37 CFR 1.492(e) has been charged to Deposit Account No. 50-1676 as authorized.

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 18 September 2000, under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 21 March 2003.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

James Thomson
Attorney Advisor
PCT Legal Office

Tel.: (703) 308-6457

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 : 11/10/07

Patent No. : 7109425 B2
Application No : 10/381124
Inventor(s) : Reis et al.
Issued : Sep. 19, 2006
Title : **LOW ALTERNATING CURRENT (AC) LOSS SUPERCONDUCTING CABLE**
Docket No. : 1014-SP118

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of 37 CFR 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Fee(s) Transmittal Form PTOL-85B. After payment of the issue fee, correction of assignment data submitted on the PTOL-85B can only be done by Certificate of Correction under 37 CFR 1.323, with a request under 37 CFR 3.81(b).

A request for a patent to be corrected to state the name of the assignee must:

A. state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent;
B. include a request for a certificate of correction under 37 CFR 1.323 along with the fee set forth in 37 CFR 1.20(a); and
C. include the processing fee set forth in 37 CFR 1.17(i).

If the request is granted, Certificates of Correction Branch will be notified that a Certificate of Correction may be issued.

See Manual of Patent Examining Procedure, Section 1481.01 (Rev. 3) (Oct. 2005).

Applicant has not included items A and or C above, accordingly, the request for Certificate of Correction to add or change the assignee data is denied.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	571-273-8300 ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Elisha Evans
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 ext. 110

LARSON NEWMAN ABEL POLANSKY & WHITE, LLP
5914 WEST COURTYARD DRIVE
SUITE 200
AUSTIN TX 78730

CBN/eme

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No. 060304

Katten Muchin
Zavis Rosenman
15th Floor
575 Madison Avenue
New York NY 10022-2585

JUN - 4 2004

In re Application of:	:	
REIS *et al.*	:	DECISION ON PETITION
Serial No.: 10/381,125	:	TO MAKE SPECIAL
Filed: May 22, 2003	:	
Attorney Docket No.: **SPP 17.653**	:	

This is a decision on the petition under 37 C.F.R. § 1.102, filed February 12, 2004, to make the above-identified application special.

Petitioner requests that the above-identified application be made special under the accelerated examination procedure set forth in Manual of Patent Examining Procedure (M.P.E.P.), Section 708.02, Item IX: Special status for patent applications relating to superconductivity.

A grantable petition to make an application special under 37 C.F.R. § 1.102, and in accordance with M.P.E.P. § 708.02, Section IX, for an invention that relates to superconductivity materials, should be accompanied by a statement under 37 CFR 1.102 that the invention involves superconductive materials.

Accompanying the petition is a statement by Serle Mosoff that the invention involves superconductive materials.

For the above stated reasons, the petition is GRANTED.

If the examiner can make this application special without prejudice to any possible interfering applications, and he/she should make a rigid search for such, he/she is authorized to do so for the next action. Should the application be rejected, the application will not be considered special for the subsequent action unless the applicant promptly makes a bona fide effort to place the application in condition for allowance, even if it is necessary to have an interview with the examiner to accomplish this purpose.

If the examiner finds any interfering application for the same subject matter, he/she should consider such application simultaneously with this application and should state in the official letter of such application that she is taking it out of its turn because of possible interference.

Should an appeal be taken in this application or should this application becomes involved in an interference, consideration of the appeal and the interference will be expedited by all Patent and Trademark Office officials concerned, contingent likewise upon diligent prosecution by the applicant.

After allowance, this application will be given priority for printing. See M.P.E.P. § 1309.

Inquiries regarding this decision should be directed to Clayton LaBalle at (571) 272-1594.

Clayton E. LaBalle, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

10381125

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: ——

DATE : 1/6/05

TO SPE OF : ART UNIT 2832

SUBJECT : Request for Certificate of Correction on Patent No.: 6794970 B2

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-915
Palm location **7580** - Tel. No. 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Virginia Tolbert

Thank You For Your Assistance — **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

SPE — AU-2832 Art Unit

OIPE JC181
NOV 0 5 2004
PATENT & TRADEMARK OFFICE

11-08-04

Cg C.

IN THE U.S. PATENT AND TRADEMARK OFFICE

Patent No.: 6,794,970 B2

PATENT

Application No.: 10/381,125

Attorney Docket No. 101453-00120 SP 17.653

Filing Date: 05/22/2003

Inventor(s): Chandra T. Reis et al.

Customer No.: 026304

Title: Low Alternating Current (AC) Loss Superconducting Coils

Certificate
NOV 1 2 2004
of Correction

Attention Certificate of Corrections Branch
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Gentlemen:

Enclosed is a Certificate of Correction form PTO/SB/44 for entry into the file of the captioned United States patent. Any fee due with this paper, not fully covered by an enclosed check, may be charged on Deposit Account 50-1290.

Respectfully submitted,

By:

Serle Ian Mosoff
Registration No. 25,900
Attorney for Applicant(s)

CUSTOMER NUMBER 026304
KATTEN MUCHIN ZAVIS ROSENMAN
575 Madison Avenue
New York, NY 10022-2585
(212) 940-8717

Docket No.: 101453-00120 SP 17.653 SP 155

Filed by Express
(Receipt No. EV 479697326 US
on NOV-5-04
pursuant to 37 C.F.R. 1.10.
by

NOV 1 5 2004

11191525.01

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

PATENT NO. : 6,794,970 B2

DATED : September 21, 2004

INVENTOR(S) : Chandra T. Reis and Michael S. Walker

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

In the specification at column 1 line 7 insert the following:

This invention was made with government support under Contract No. DE-FC36-98GO10282 awarded by the Department of Energy. The government has certain rights in this invention.

Filed by Express
(Receipt No. EV479698326US
on NOV-5-04
pursuant to 37 C.F.R. 1.10.
by [illegible]

MAILING ADDRESS OF SENDER:

KMZ Rosenman
575 Madison Avenue
New York, NY 10022

PATENT NO. 6,794,970

No. of additional copies

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: **Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

NOV 15 2004

18 MAY 2004

#6

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Andrew N. Parfomak
Norris, McLaughlin & Marcus
220 East 42nd Street
30th Floor
New York, NY 10017

In re Application of BEDFORD et al	:	
U.S. Application No.: 10/381,128	:	
PCT Application No.: PCT/GB01/04261	:	DECISION
Int. Filing Date: 25 September 2001	:	
Priority Date Claimed: 25 September 2000	:	
Attorney Docket No.: 102792-101	:	
For: ANTI-STATIC CLEANING WIPES	:	

This is in response to applicant's "Petition to Withdraw Holding of Abandonment" filed 05 March 2004, which is being treated under 37 CFR 1.8. No petition fee is due.

BACKGROUND

On 25 September 2001, applicant filed international application PCT/GB01/04261, which claimed priority of an earlier United Kingdom application filed 25 September 2000. A copy of the international application was communicated to the USPTO from the International Bureau on 28 March 2002. The thirty-month period for paying the basic national fee in the United States expired on 25 March 2003.

On 21 March 2003, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 15 July 2003, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 11 September 2003, applicant purportedly filed an execution declaration via facsimile transmission.

On 20 February 2004, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909), which indicated that the application is abandoned for failure to timely respond to the Notification of Missing Requirements.

On 05 March 2004, applicant filed the present petition under 37 CFR 1.8.

DISCUSSION

The petition states that a declaration was filed via facsimile transmission on 11 September 2003. The correspondence in question includes a certificate of transmission in compliance with 37 CFR 1.8(a)(1).

CONCLUSION

For the reasons above, the petition under 37 CFR 1.8 is GRANTED.

The Notification of Abandonment (Form PCT/DO/EO/909) mailed 20 February 2004 is hereby VACATED.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision, including preparation and mailing of a Notification of Defective Response (Form PCT/DO/EO/916), which should indicate that the last name of the second inventor listed on the declaration does not match that shown in the published international application.

Bryan Tung
PCT Legal Examiner
Office of PCT Legal Administration

Telephone: 703-308-6614
Facsimile: 703-308-6459

05 NOV 2004

#9

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Andrew N. Parfomak
Norris, McLaughlin & Marcus
220 East 42nd Street
30th Floor
New York, NY 10017

In re Application of BEDFORD et al	:	
U.S. Application No.: 10/381,128	:	
PCT Application No.: PCT/GB01/04261	:	DECISION
Int. Filing Date: 25 September 2001	:	
Priority Date Claimed: 25 September 2000	:	
Attorney Docket No.: 102792-101	:	
For: ANTI-STATIC CLEANING WIPES	:	

This is in response to applicant's "Petition Under 37 CFR 1.182" filed 23 June 2004.

BACKGROUND

On 25 September 2001, applicant filed international application PCT/GB01/04261, which claimed priority of an earlier United Kingdom application filed 25 September 2000. A copy of the international application was communicated to the USPTO from the International Bureau on 28 March 2002. The thirty-month period for paying the basic national fee in the United States expired on 25 March 2003.

On 21 March 2003, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 15 July 2003, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 11 September 2003, applicant filed an execution declaration via facsimile transmission.

On 26 May 2004, the DO/EO/US mailed a Notification of Defective Response (Form PCT/DO/EO/916) which indicated a discrepancy in the name of the second inventor.

On 23 June 2004, applicant filed the present petition under 37 CFR 1.182.

DISCUSSION

MPEP 605.04(c) states in relevant part,

> In cases where an inventor's name has been changed after the application has been filed and the inventor desires to change his or her name on the application, he or she must submit a petition under 37 CFR 1.182. . . . The petition must include an appropriate petition fee and an affidavit signed with both names and setting forth the procedure whereby the change of name was effected, or a certified copy of the court order.

Applicant has submitted an appropriate petition under 37 CFR 1.182 including the requisite fee as described above.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.182 is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 25 September 2001, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 11 September 2003.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

Bryan Tung
PCT Legal Examiner
Office of PCT Legal Administration

Telephone: 703-308-6614
Facsimile: 703-308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Barnes & Thornburg
600 One Summit Square
Fort Wayne IN 46802

COPY MAILED
JUN 22 2007
OFFICE OF PETITIONS

In re Application of :
Korpman et al. :
Application No. 10/381,158 : ON PETITION
Filed: March 21, 2003 :
Attorney Docket No. 27524/82623 :

This is a decision on the communications filed December 14, 2006, which are being treated as (1) a petition under 37 CFR 1.183 requesting waiver of 37 CFR 1.64 and acceptance of the concurrently filed supplemental declaration lacking execution by Ralph Korpman (Korpman) and Cindy Post (Post), (2) a petition under 37 CFR 1.48 to amend the inventive entity to add Malik M. Hasan (Hasan), and (3) a petition under 37 CFR 1.102(c) to make the application special based on applicant's age.

The petitions are **GRANTED**.

Petitions Under 37 CFR 1.183 and 1.48

The above-identified application as filed named Korpman, Peterson, Post and Wallen as joint inventors. The instant correspondence, by way of a petition asserts that Hasan is also a joint inventor, provides a declaration under 37 CFR 1.63 signed by Peterson, Wallen and Hasan, but lacking the signature of Korpman and Post, a statement of lack of deceptive intent by Hasan as required by 37 CFR 1.48(a)(1), and also the allegation that Korpman and Post, through their counsel, has disputed the instant asserted joint inventorship, and notwithstanding service by mail, has not executed the declaration naming Hasan as a joint inventor.

As explained in MPEP 201.03, a petition under 37 CFR 1.183 must be considered requesting waiver of the requirement of 37 CFR 1.64 that each of the actual inventors, including inventors Korpman and Post, execute the instant oath or declaration. Accordingly, the fee for a petition for waiver of the rules is required in addition to the fee for amending the inventorship under 37 CFR 1.48. 37 CFR 1.48(a) requires that an amendment to the named inventive entity be accompanied by: (1) a petition including a statement from each person being added and from each person being deleted as an inventor that the error occurred without deceptive intention on his or her part; (2) an oath or declaration by each actual inventor or inventors as required by 37 CFR 1.63 or as permitted by 37 CFR 1.42, 1.43 or 1.47; (3) the fee set forth in 37 CFR 1.17 (i); and (4) the written consent of any existing assignee, if any of the originally named inventors has executed an assignment. Office records reflect an assignment between the originally named inventors and HealthTrio, Inc. has been recorded. Petitioner has also provided a copy of the executed

assignment to HealthTrio and a copy of the Notice of Recordation with the reel and frame number where the assignment was recorded with the Office.

In view of the circumstances recounted in the petition, it is agreed that justice would be served by waiver of the rules and acceptance of the declaration lacking the signatures of Korpman and Post.

In view of the papers filed December 14, 2006, it has been found that this non provisional application, as filed, through error and without deceptive intent, improperly set forth the inventorship, and accordingly, this application has been corrected in compliance with 37 CFR 1.48(a). The inventorship of this application has been changed by the addition of Malik M. Hasan, Las Vegas, NV. A corrected filing receipt is being mailed to the above address.

Petition Under 37 CFR 1.102

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a statement by inventor, Hasan, that he is sixty-eight years old. Accordingly, the above-identified application has been accorded "special" status.

This application is being referred to the Group Art Unit 3626.

Telephone inquiries relative to this decision should be directed to Denise Pothier at (571) 272-4787.

Brian Hearn
Petitions Examiner
Office of Petitions

enc: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/381,158	10/06/2003	3626	590	27524-82423	29	5

CONFIRMATION NO. 7162

CORRECTED FILING RECEIPT

OC000000024480050

Barnes & Thornburg
600 One Summit Square
Fort Wayne, IN 46802

Date Mailed: 06/21/2007

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)

Ralph A Korpman, San Bernandino, CA;
John C. Peterson, Tucson, AZ;
Cindy A. Post, Colton, CA;
J. Dominic Wallen, Tucson, AZ;
Malik M Hassan, Las Vegas, NV;

Power of Attorney:

Richard Conard--27321

Domestic Priority data as claimed by applicant

This application is a 371 of PCT/US01/42618 10/11/2001
which claims benefit of 60/239,860 10/11/2000

Foreign Applications

If Required, Foreign Filing License Granted: 06/21/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is
US10/381,158

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

System for communication of health care data

Preliminary Class

705

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15 (b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is

revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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

BARNES & THORNBURG
600 ONE SUMMIT SQUARE
FORT WAYNE IN 46802

COPY MAILED
NOV 1 2 2008

In re Application of	:	
Hasan et al.	:	
Application No. 10/381,158	:	ON PETITION
Filed: October 6, 2003	:	
Attorney Docket No. 27524-82423	:	

This is a decision on the petition under 37 CFR 1.182, filed October 31, 2008, to change the order of the names of the inventors.

The petition is **GRANTED**.

The order of the names of the inventors will be changed as follows:

1. Malik M. Hasan
2. J. Dominic Wallen
3. John C. Peterson
4. Ralph A. Korpman
5. Cindy A. Post

This matter is now being referred to Technology Center AU 3685 to await a reply to the Office action mailed July 18, 2008.

Telephone inquiries regarding this decision should be directed to Joan Olszewski at (571) 272-7751. All other inquiries should be directed to the Technology Center.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/381,158	10/06/2003	3685	590	27524-82423	29	5

CONFIRMATION NO. 7162

CORRECTED FILING RECEIPT

Barnes & Thornburg
600 One Summit Square
Fort Wayne, IN 46802

OC000000033042265

Date Mailed: 11/10/2008

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Malik M Hasan, Las Vegas, NV;
J. Dominic Wallen, Tucson, AZ;
John C. Peterson, Tucson, AZ;
Ralph A Korpman, San Bernandino, CA;
Cindy A. Post, Colton, CA;

Power of Attorney:
Richard Conard--27321

Domestic Priority data as claimed by applicant

This application is a 371 of PCT/US01/42618 10/11/2001
which claims benefit of 60/239,860 10/11/2000

Foreign Applications

If Required, Foreign Filing License Granted: 06/21/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/381,158**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

System for communication of health care data

Preliminary Class

705

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

15 JUN 2006

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

OLIFF & BERRIDGE
PO BOX 19928
ALEXANDRIA, VA 22320

In Re Application of KONDOU et al. Application No.: 10/381,183 PCT No.: PCT/JP01/08157 Int. Filing Date: 19 August 2001 Priority Date: 26 September 2000 Attorney Docket No.: 11515 For: NOZZLE STRUCTURE IN WASHER FLUID EJECTION APPARATUS	DECISION

This is a decision on applicant's "Third Request for Correction of Palm Records" filed in the United States Patent and Trademark Office (USPTO) on 14 October 2003. This is also responsive to applicant's request filed on 14 July 2004 and status inquiry filed on 7 June 2006.

On 19 September 2001, applicant filed international application No. PCT/JP01/08157 which claimed a priority date of 26 September 2000 and which designated the United States. Thereafter, on 21 March 2003, before the expiration of the thirty month period, applicant filed, *inter alia*, a transmittal letter for entry into the national stage and the basic national stage filing fee. Thereafter on 01 April 2003, applicant submitted an executed declaration.

On 20 May 2003, a Notification of Acceptance Under 35 U.S.C. 371 and 37 CFR 1.495 (Form PCT/DO/EO/903) incorrectly indicating a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 11 April 2003. No Notification of Missing Requirements (Form PCT/DO/EO/905) was issued. On 14 October 2003, applicant filed a Request for a Corrected Filing Receipt. On 14 July 2004 applicant resubmitted the request. Subsequently, applicant filed several status inquiries.

Applicant requests a corrected filing date for submission of the declaration originally filed 01 April 2003. The request is accompanied by a copy of the itemized postcard receipt with USPTO date-stamp "01 April 2003", indicating receipt of, *inter alia*, the declaration of the inventor. Applicant, in effect, urges that the Form PCT/DO/EO/903 be vacated and that a new Notification of Acceptance and Corrected Filing Receipt be issued indicating a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 01 April 2003.

DISCUSSION

A review of the USPTO date-stamped, itemized postcard receipt indicates that the executed declaration was deposited, along with other documents (Assignment and Transmittal Letter), with the USPTO on 01 April 2003.

The evidence submitted is sufficient to establish that this application was received in the USPTO on 01 April 2003. Accordingly, it is appropriate to accept the filing date of the declaration as deposited on 01 April 2003. The Notification of Acceptance mailed on 20 May

2003 indicating a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 01 April 2003 was erroneously issued.

A review of the declaration reveals that the declaration identifies the inventor, and states his residency, citizenship and mailing address. Thus, the declaration is acceptable and the requirements of 37 CFR 1.497 are met.

CONCLUSION

For the reasons set forth above, applicant's request to vacate the Notification of Acceptance is **GRANTED**.

The Notification of Acceptance (Form PCT/DO/EO/903) mailed on 20 May 2003 is hereby **VACATED**, as it incorrectly indicates a 35 U.S.C. 371(c) (1), (c)(2) and (c)(4) date of 11 April 2003.

The application will be forwarded to the United States Designated/Elected Office for further processing including issuance of a Notification of Acceptance (Form PCT/DO/EO/903 indicating a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of **01 April 2003.**

The application will then be forwarded to Art Unit 3752 for examination in due course.

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

Telephone: (571) 272-3286

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JACOBSON HOLMAN PLLC
400 SEVENTH STREET N.W.
SUITE 600
WASHINGTON, DC 20004

COPY MAILED
MAR 16 2006
OFFICE OF PETITIONS

In re Application of Anton et al. :
Application No. 10/381,206 : Decision on Petition
Filing Date: March 27, 2003 :
Attorney Docket No. P68732USO :

This is a decision on the petition under 37 CFR 1.181, filed January 24, 2006, to withdraw the holding of abandonment.

The petition is **granted.**

A Notice Regarding Drawings was mailed August 9, 2005. The Notice set a two-month time period for reply.

A subsequent review of the file wrapper failed to indicate a reply had been filed and a Notice of Abandonment was mailed on January 6, 2006.

The instant petition is accompanied by postcard receipt verifying a Response to the Notice and 5 sheets of drawings were filed on August 25, 2005. The evidence is sufficient to establish a reply was timely filed.

The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The Office of Publications will be informed of the instant decision and will review the corrected drawings in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED

MAY 0 5 2006

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

In re Application of:
HIDEHIKO AOKI
Application Serial No.: 10/381,211
Filed: August 13, 2003
For: **COMMUNICATION SYSTEM FOR PROVIDING INFORMATION ON POSITION OF COMMUNICATION PARTY**

DECISION ON PETITION

This is a decision on the petition, filed on March 8, 2006 under 37 C.F.R. §1.181, requesting that the examiner acknowledge and consider the art cited in an IDS filed on September 9, 2003.

The prior art listed as part of the IDS was previous considered by the examiner and is of record in the file, see attached initialed 1449.

Accordingly, the petition is **DISMISSED**.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

Enclosures: Initialed 1449

24 SEP 2003

#4

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Guy R. Gosnell
Alston & Gird, LLP
Bank of America Plaza
101 South Tryon Street, Suite 4000
Charlotte, NC 28280-4000

In re Application of	:	
MOON, et al.	:	DECISION ON PETITION
Serial No.: 10/381,227	:	
PCT No.: PCT/KR01/01588	:	UNDER 37 CFR 1.47(a)
Int. Filing Date: 21 September 2001	:	
Priority Date: 21 September 2000	:	
Atty Docket No.: 047559/261245	:	
For: CATIONIC LIPIDS AND USE THEREOF	:	

This decision is in response to the applicant's "RESPONSE TO NOTICE TO FILE MISSING PARTS OF APPLICATION" filed 14 August 2003 in the United States Patent and Trademark Office (USPTO). The response includes papers which are being considered as a petition under 37 CFR 1.47(a) to accept the application without the signature of inventor Dr. Byung-gu KIM.

BACKGROUND

On 21 September 2001, applicant filed international application PCT/KR01/01588. A copy of the international application was communicated to the USPTO from the International Bureau on 28 March 2002. A Demand for international preliminary examination, in which the United States was elected, was filed prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 21 March 2003.

On 21 March 2003, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1) and a preliminary amendment. An executed oath or declaration of the inventors as required by 35 U.S.C. 371 (c)(4) was not filed.

On 13 June 2003, applicant was mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) informing applicant of the need to provide an executed oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date. Applicant was afforded two months or by 32 months from the priority date whichever was later to respond.

09/26/2003 SNAJARRO 00000008 120605 10381227
01 FC:1460 120.00 DA

On 14 August 2003, applicant responded with the present petition accompanied by a combined declaration and power of attorney.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the requisite $130 petition fee required by 37 CFR 1.17(I); (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort; (3) a statement of the last known address of the missing joint inventor; and (4) an oath or declaration executed by each of the signing joint inventors on their behalf and on behalf of the non-signing joint inventor(s).

Regarding item (1), applicant has authorized the charging of all applicable fees to Deposit Account No.: 16-0605. As such, the $130.00 petition fee will be charged thus satisfying this item. Applicant has also satisfied items (3) and (4) above.

As to item (2), the Manual of Patent Examination Procedure (MPEP), Section 409.03(d) Proof of Unavailability or Refusal states that, "Before a refusal can be alleged, it must be demonstrated that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor for signature." In the present petition, applicant, through the declaration of Mr. Sung Min Oh, has provided sufficient proof of Dr. Kim's refusal to execute the declaration, however, it is unclear whether Dr. Kim has been presented with a complete copy of the application papers as required. Before the refusal can be accepted for the purposes of 37 CFR 1.47(a) applicant must provide proof from an individual with first-hand knowledge that Dr. Kim was presented with a complete set of application papers prior to his refusal. If Dr. Kim has not been provided with a complete set of application papers a copy of the papers should be mailed to him. Dr. Kim should then be contacted again to confirm his earlier refusal.

CONCLUSION

For the reasons stated above, applicant's petition under 37 CFR 1.47(a) is **DISMISSED without prejudice**.

As detailed above, the $130.00 petition fee will be deducted from Deposit Account No.: 16-0605.

Any reconsideration on the merits of this petition must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)" or "Petition Under 37 CFR 1.42" as appropriate. No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be directed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (703) 305-0130
Fax: (703) 308-6459

13 MAY 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Guy R. Gosnell
Alston & Gird, LLP
Bank of America Plaza
101 South Tryon Street, Suite 4000
Charlotte, NC 28280-4000

In re Application of	:	
MOON, et al.	:	DECISION ON RENEWED
Serial No.: 10/381,227	:	
PCT No.: PCT/KR01/01588	:	UNDER 37 CFR 1.47(a)
Int. Filing Date: 21 September 2001	:	
Priority Date: 21 September 2000	:	
Atty Docket No.: 047559/261245	:	
For: CATIONIC LIPIDS AND USE THEREOF	:	

This decision is in response to applicant's "Renewed Petition Under 37 CFR 1.47(A) to file an Application When an Inventor Cannot be Reached" filed 23 December 2003 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 24 September 2003, applicant was mailed a decision dismissing applicant's petition under 37 CFR 1.47(a). Applicant was afforded two months to file any request for reconsideration and informed that this period could be extended pursuant to 37 CFR 1.136(a).

On 23 December 2003, applicant filed the present renewed petition accompanied by a petition for a one-month extension of time and payment of the appropriate extension fee. The renewed petition is thus considered timely filed.

DISCUSSION

As detailed in the decision mailed 24 September 2003, a petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(i), (2) factual proof that the missing joint investor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor. Applicant previously satisfied items 1, 3 and 4 above.

As to item (2), applicant has provided a sufficient documentation detailing diligent efforts to locate the non-signing inventor and obtain his signature on the declaration; including sending the inventor a declaration and complete set of application papers at his last known address. Sufficient time has elapsed from the mailing of the papers to inventor and applicant receiving no

response from the inventor to satisfy this item.

CONCLUSION

For the reasons above, applicant's renewed petition under 37 CFR 1.47(a) is GRANTED.

The application has an international filing date of 21 September 2001 under 35 U.S.C. 363, and will be given a date of 14 August 2003 under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the non-signing inventor at his last known address of record. A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

This application is being returned to the DO/EO/US for processing in accordance with this decision. Specifically, the mailing of a Notification of Acceptance (Form PCT/DO/EO/903).

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (703) 305-0130
Fax: (703) 308-6459

13 MAY 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Mr. Byung-gu KIM
445-11, Suhovilla 101, Galhyunl Dong
Eunpyungku, 122051
Seoul
KOREA

In re Application of
MOON, et al.
PCT No.: PCT/KR01/01588
Application No.: 10/381,227
Int. Filing Date: 21 September 2001
Priority Date: 21 September 2000
Atty. Docket No.: 047559/261245
For: CATIONIC LIPIDS AND USE THEREOF

Dear Dr. Kim:

You are named as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternately, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of the appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (703) 305-0130
Fax: (703) 308-6459

Guy R. Gosnell
Alston & Gird, LLP
Bank of America Plaza
101 South Tyron Street, Suite 4000
Charlotte, NC 28280-4000
United States of America

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

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

COPY MAILED

MAR 21 2006

OFFICE OF PETITIONS

Applicant: Ochi et al.
Appl. No.: 10/381,228
International Filing Date: September 21, 2001
Title: GRAVURE PAPER
Attorney Docket No.: KOD103B.001
Pub. No.: US 2005/0150625 A1
Pub. Date: July 14, 2005

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on September 12, 2005, for the above-identified application

The request is DISMISSED.

The instant request is that the application be republished because the front page of the patent application publication includes a material error in the foreign priority information as the claim to application 2001-255554 (JP) filed August 27, 2001 is missing from the front page.

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. [1]

The omission of application (JP) 2001-255554 filed August 27, 2001, from the priority information on the front page of the published patent application is an Office error but it is not a material error, as required by 37 CFR 1.221(b). The error in the foreign priority claim is not a material mistake because it does not affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. The specification and claims were accurately published, thus

[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).

one can read and understand the content of the application. The error also does not affect the use of the patent application publication as a prior art reference, because the foreign priority date is not useable as a reference date.

On August 12, 2003, a Filing Receipt was mailed by the Office, which improperly listed the priority information. To avoid this type of problem in the future, applicant's representative should review the Filing Receipt and make a request for a Corrected 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 compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18 (d) and the processing fee set forth in § 1.17 (i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18 (d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system and questions or request for reconsideration of the 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: 571-273-8300

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709 (voice).

Mark D. Polutta

Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

10381244

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: —

DATE : 1/6/05

TO SPE OF : ART UNIT 2836

SUBJECT : Request for Certificate of Correction on Patent No.: 6794768 B2

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-915
Palm location **7580** - Tel. No. 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Virginia Tolbert

Thank You For Your Assistance

Certificates of Correction Branch

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

BRIAN SIRCUS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

SPE

2836

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

WILLIAM S. FROMMER
FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE
NEW YORK, NY 10151

COPY MAILED

DEC 15 2005

OFFICE OF PETITIONS

In re Application of	:	
Nobuhito Ebine	:	
Application No. 10/381,262	:	DECISION GRANTING PETITION
Filed: October 9, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 450104-04079	:	

This is a decision on the petition, filed November 18, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on October 25, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2839 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

Frances Hicks
Petitions Examiner
Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b) (along with any balance due at the time of payment), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

UNITED STATES PATENT AND TRADEMARK OFFICE

SEP 9 2004

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Application of :
Ron D. Clark et *al* : DECISION ON PETITION
Application No. 10/381,267 :
Filed: March 19, 2003 :
Attorney Docket No. 7885-A-1PCTUS

This is a decision on the petition to make special filed on October 31, 2003. The petition is submitted pursuant to the practice established in MPEP § 708.02(II) "Infringement." The $130.00 petition fee has been received.

The petition is granted.

A review of the petition shows that petitioners have satisfied all of the requirements of the above-cited MPEP section. Accordingly, the examiner will treat this application as special throughout its prosecution. Prior to the first action on the merits, the examiner will conduct a rigorous search for potentially interfering applications. The interference search will be brought up to date prior to each successive action.

The Supervisory Patent Examiner of Patent Examining Art Unit 3753 will be notified of this decision, and will inform the assigned examiner to take action not inconsistent there with this decision.

PETITION GRANTED.

Stephen Marcus, Special Program Examiner,
Technology Center 3700

Jordan M. Meschkow
Meschkow & Gresham
5727 North Seventh Street
Suite 409
Phoenix, AZ 85014

21 OCT 2003

#5

UNITED STATES PATENT and TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

NIXON PEABODY LLP
8180 Greensboro Drive
Suite 800
McLean, Virginia 22102

In re Application of	:	DECISION ON
Villamar et al	:	
PCT No.: PCT/US01/27731	:	
Application No: 10/381,271	:	PETITION UNDER
Int. Filing Date: 25 September 2001	:	
Priority Date: 25 September 2000	:	
Attorney's Docket No.: 030251-4	:	37 CFR 1.47(a)
For: METHOD, SYSTEM AND...	:	
ANIMAL PRODUCTION SYSTEMS	:	

This is in response to the "PETITION UNDER 37 CFR .147(a)" filed on 08 September 2003. The petition fee of 130.00 has been paid.

BACKGROUND

On 25 September 2001, applicants filed international application PCT/US01/27731, which claimed priority to an earlier application filed 25 September 2000. A copy of the international application was communicated by the International Bureau to the United States Patent and Trademark Office on 04 April 2002. The thirty-month (30) time period for paying the basic national fee in the United States of America expired at midnight on 25 March 2003.

On 10 June 2002, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) which informed applicant, inter alia, that an "Oath or Declaration of the inventors, in compliance with 37 CFR 1.497(a), and (b), identifying the application by International application number and international filing date" must be submitted within two months from its 10 June 2002 date of mailing or by 32 months from the priority date, whichever is later, in order to avoid abandonment of the national stage application.

On 24 March 2003, applicants filed a Transmittal Letter for entry into the national stage in the United States of America. Filed with the Transmittal Letter was, inter alia, the requisite basic national fee. No executed oath or declaration from the inventors accompanied the Transmittal Letter.

On 18 April 2003, petitioner filed the present petition under 37 CFR 1.47(a) accompanied, *inter alia*, with a declaration in support of filing on behalf of omitted inventor David Moriarty, and an executed Declaration without the signature of David Moriarty.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor.

Furthermore, section 409.03(d) of the Manual of Patent Examining Procedure (M.P.E.P.) **Proof of Unavailability or Refusal**, the relevant sections states, in part:

> **REFUSAL TO JOIN:**
>
> A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney. The fact that an application may contain proprietary information does not relieve the **37 CFR 1.47** applicant of the responsibility to present the application papers to the inventor if the inventor is willing to receive the papers in order to sign the oath or declaration. It is noted that the inventor may obtain a complete copy of the application, unless the inventor has assigned his or her interest in the application, and the assignee has requested that the inventor not be permitted access. See **MPEP § 106**. It is reasonable to require that the inventor be presented with the application papers before a petition under **37 CFR 1.47** is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. *In re Gray*, 115 USPQ 80 (Comm'r Pat. 1956).
>
> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.

> Proof that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient. When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal.
>
> When it is concluded by the **37 CFR 1.47** applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition.

Petitioner has satisfied requirements (1), (3), and (4) of 37 CFR 1.47(a). However, requirement (2) of 37 CFR 1.47(a) has not been satisfied.

Regarding requirement (1), petitioner has provided the fee under 37 CFR 1.17(h).

Regarding requirement (2), the correspondence mailed by Carlos R. Villamar (the package sent via FEDEX on August 7, 2003 and September 7, 2003), are insufficient to support a finding that the nonsigning inventor, Mr. Moriarty refuses to sign the declaration because based on the communication dated 07 September 2003, there appears to be a misunderstanding about the final version of the patent. Consequently, petitioner informed Mr. Moriarty that there was a September 10, 2003 extended deadline to submit the required documents but Mr. Moriarty was not given the opportunity to provide the documents by the given deadline since the petition was filed with the USPTO on 08 September 2003, two days prior to said deadline.

Moreover, applicants have not provided the facsimile letter dated 5 September 2003 by Mr. Moriarty asserting that this was the first time he saw the final version of the patent. This implies the possibility that the final version of the application received by Mr. Moriarty was not the same as the published PCT application. In addition, applicants have not provided the transcript that occurred via the teleconference with Mr. Moriarty on September 07, 2003. Applicants are required to provide the above items with affidavits from persons having first hand knowledge of said events.

Accordingly, the current record does not support the premise that Mr. Moriarty's conduct constitutes refusal since he was not given until the deadline to provide the documents.

Regarding requirement (3), petitioner has provided a statement of the last known address of the missing inventor.

Regarding requirement (4), petitioner has provided an executed declaration signed by David Villamar on his behalf and on the behalf of the nonsigning joint inventor David Moriarty.

Consequently, at this time it can not be concluded that Mr. Moriarty had refused to sign the documents based on the evidence provided and the date the petition was filed.

DECISION

Consequently, the petition has not met the requirements under 37 CFR 1.47(a).

The petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration of the merits of the petition under 37 CFR 1.47(a) is desired, applicant must file a request for reconsideration within **TWO (2) MONTHS** from the mail date of this Decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." Extensions of time are available under 37 CFR 1.136(a). Failure to timely file the proper response will result in ABANDONMENT.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office

Boris Milef
PCT Legal Examiner
PCT Legal Office

Telephone: (703) 308-6312
Facsimile: (703) 308-6459

03 FEB 2004

#7

UNITED STATES PATENT and TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

NIXON PEABODY LLP
8180 Greensboro Drive
Suite 800
McLean, Virginia 22102

In re Application of	:	DECISION ON
Villamar et al	:	
PCT No.: PCT/US01/27731	:	
Application No: 10/381,271	:	PETITION UNDER
Int. Filing Date: 25 September 2001	:	
Priority Date: 25 September 2000	:	
Attorney's Docket No.: 030251-4	:	37 CFR 1.47(a)
For: METHOD, SYSTEM AND...	:	
ANIMAL PRODUCTION SYSTEMS		

This is in response to the "RENEWED PETITION UNDER 37 C.F.R. §1.47(a) REGARDING NON-SIGNING INVENTOR DAVID J.W. MORIARTY" filed on 07 December 2003.

BACKGROUND

In a decision from this Office on 21 October 2003, the initial petition under 37 CFR 1.47(a) was dismissed. The decision stated that it appeared that a misunderstanding about the final version of the patent, and that Mr. Moriarty was not given the opportunity to provide the documents by the given deadline since the petition was filed with the USPTO two days prior to the deadline. Accordingly, the petition did not include sufficient factual proof that Mr. Moriarty refused to sign the required papers.

On 17 December 2003, applicant submitted a "Renewed Petition Under 37 CFR 1.47(a)" requesting reconsideration of the Office's decision of 21 October 2003 with respect to accepting the above application without the signature of nonsigning inventor Mr. Moriarty. Filed with the renewed petition is a copy of the September 5, 2003 facsimile letter from Mr. Moriarty, a Declaration from Mr. Carlos Villamar, and a summary of events leading to the filing to this renewed petition under 37 C.F.R. 1.47(a).

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by the 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor.

The renewed petition of 17 December 2003 has satisfied requirement 2 under 37 CFR 1.47(a). Thus satisfying all the requirements under 37 CFR 1.47(a).

Mr. Villamar's averments do sufficiently demonstrate that a *bona fide* attempt was made to obtain the signature of Dr. Moriarty and that he refuses to sign the required papers because of a disagreement about the application. Accordingly, the conduct of Dr. Villamar is interpreted based on the evidentiary copies of the emails submitted as a refusal to sign the required papers. Consequently, the current record does sufficiently establish that Dr. Moriarty refusal to join in the application.

Petitioner has now satisfied items (1), (2), (3), and (4) under 37 CFR 1.47(a), thus completing the requirements under 37 CFR 1.47(a).

CONCLUSION

The petition under 37 CFR 1.47(a) is **GRANTED**.

The Application Division and the International Division are authorized to accept the application as a 37 CFR 1.47(a) application and to mail a filing receipt. The application will be given a 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) date of **08 September 2003.**

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the non-signing inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing under 35 U.S.C. 371.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Telephone: (703) 308-6312
Facsimile: (703) 308-6459

Leonard Smith
PCT Legal Examiner
PCT Legal 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

NIXON PEABODY, LLP
401 9TH STREET, NW
SUITE 900
WASHINGTON DC 20004-2128

COPY MAILED

OCT 01 2007

OFFICE OF PETITIONS

In re Application of: David Moriarty
Application No. 10/381,271
Filed: September 8, 2003
Attorney Dck't. No. 030251-4

: ON PETITION

This is a decision on the petitions filed October 16, 2006, which are being treated as filed under 37 CFR §§ 1.183, 1.48(a) to waive the requirements of 37 CFR 1.48(a)(3), and to accept the concurrently filed declaration under 37 CFR 1.63 lacking the signature of non-signing, originally named inventor Moriarty.

The petitions are granted.

Applicant notes that Rule 47(a) status was accorded to this application based on the refusal or Mr. Moriarty, as an originally named joint inventor, to make this application with joint inventor Mr. Villamar. The petition includes the consent of the assignee of all the originally signing inventors, and a new declaration under 37 CFR 1.63 indicating that Mr. Moriarty is the sole inventor, but lacking his signature, and executed on behalf of the assignee. Inspection of relevant USPTO records reveals that the assignment carries from Mr. Moriarty's assignment of his entire right, title and interest in provisional application No. 60/234,784, through international PCT/US01/27732 to the instant national stage application.

In view of the demonstrated recalcitrance of the inventor, his required statement under 37 CFR 1.48(c)(3) likewise cannot be obtained, and any further efforts in this regard would be futile. It is agreed that under the extraordinary circumstances of this application, justice would be served by waiver of the requirements of 37 CFR 1.48(a)(3), and acceptance of the declaration in the absence of the signature of Mr. Moriarty. This waiver extends to any future oath or declaration that may be required or submitted in this application.

In view of the papers filed October 16, 2006, it has been found that this nonprovisional application, as filed, through error and without deceptive intent, failed to properly set forth the inventorship, and accordingly, the inventorship has been corrected in compliance with 37 CFR 1.48(a). The inventorship has been changed by the deletion of David. F. Villamar. A corrected filing receipt is attached

This file is being referenced to the Technology Center.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 2372-3217.

Brian Hearn
Petitions Examiner

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/381,271	09/08/2003	1631	1173	030251-4	34	7

CONFIRMATION NO. 3069

REPLACEMENT FILING RECEIPT

OC000000026078802

22204
NIXON PEABODY, LLP
401 9TH STREET, NW
SUITE 900
WASHINGTON, DC 20004-2128

Date Mailed: 09/28/2007

Receipt is acknowledged of this nonprovisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

David J. W. Moriarty, Wellington Point, AUSTRALIA;

Power of Attorney:

Carlos Villamar--43224

Domestic Priority data as claimed by applicant

This application is a 371 of PCT/US01/27731 09/25/2001
which claims benefit of 60/234,784 09/25/2000

Foreign Applications

If Required, Foreign Filing License Granted: 09/28/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is
US10/381,271

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Method, system and computer program product for technical management and biocontrol of disease in animal production systems

Preliminary Class

702

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).

17 SEP 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
PO Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Maria Erlinda C. Sarno
PO Box 1023
Artesia, CA 90702

In re Application of Benavides Terrazas et al. US Application No.: 10/381,299 PCT Application No.: PCT/MX01/00036 International Filing Date: 13 June 2001 Priority Date: 13 June 2000 For: WASHABLE, NON-DISPOSABLE ECOLOGICAL FILTER FOR LUBRICANTS AND FUELS	**DECISION ON PETITION FOR REVIVAL UNDER 37 CFR 1.137(b)**

The petition to revive under 37 CFR 1.137(b), filed on 24 March 2003 in the above-captioned application, is hereby **GRANTED** as follows.

On 13 June 2001, Applicants filed international application PCT/MX01/00036, which claimed priority of an earlier application filed on 13 June 2000. A copy of the international application was communicated from the International Bureau to the USPTO on 20 December 2001. A demand for international preliminary examination, in which the United States was elected, was filed on 31 December 2001, prior to 13 January 2002, the end of the 19-month period from the 13 June 2000 priority date. The period for paying the basic national fee is thus 30 months and ended at midnight on 13 December 2002.

The basic national fee was not paid on or before 13 December 2002. The international application became abandoned as to the United States on 14 December 2002.

The instant petition encloses, *inter alia*:

(1) A transmittal letter for entry into the national stage in the United States under 35 U.S.C. 371, along with the $530 basic national fee (small entity) required by 35 U.S.C. 371(c)(1) and 37 CFR 1.492(a)(3);

(2) The $650 petition fee (small entity);

(3) A statement to the effect that the entire delay in filing the basic national fee from its due date until the filing of the instant §1.137(b) petition was unintentional.

Moreover, a terminal disclaimer is not applicable in the instant case.

The request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the national stage in the United States of America.

Applicants' claim for priority is acknowledged. The application has an international filing date of 13 June 2001 under 35 U.S.C. 363.

However, the declaration submitted with the petition states that the named inventors believe that they are the "original" inventors of the claimed subject matter in this application, rather than the "original and first" inventors, as required by the U.S. patent statute. 35 U.S.C. 115; 37 CFR 1.497(a)(4). The declaration is thus defective and not accepted.

The application is being returned to the National Stage Processing Division of the Office of PCT Operations for continued processing, including mailing of a Notification of Missing Requirements under 35 U.S.C. 371, requiring an oath or declaration in compliance with 37 CFR 1.497(a)-(b).

Leonard Smith
PCT Legal Examiner
PCT Legal Office

RC Tang
Petitions Attorney
PCT Legal Office
Telephone: 703-308-1315
Facsimile: 703-308-6459

This Page Is Inserted by IFW Operations
and is not a part of the Official Record

BEST AVAILABLE IMAGES

Defective images within this document are accurate representations of the original documents submitted by the applicant.

Defects in the images may include (but are not limited to):

- BLACK BORDERS
- TEXT CUT OFF AT TOP, BOTTOM OR SIDES
- FADED TEXT
- ILLEGIBLE TEXT
- SKEWED/SLANTED IMAGES
- COLORED PHOTOS
- BLACK OR VERY BLACK AND WHITE DARK PHOTOS
- GRAY SCALE DOCUMENTS

IMAGES ARE BEST AVAILABLE COPY.

As rescanning documents *will not* correct images, please do not report the images to the Image Problem Mailbox.

)T02 Rec'd PCT/PTO 28 OCT 2003

EXPRESS MAIL CERTIFICATE

"Express Mail" mailing label No. EU 984735649 US

Date of Deposit: October 28, 2003

I hereby certify that the following documents:

Title: Washable Ecological Non-Disposable Filter.....
Serial No.: PCT/MX01/00036
US Application: 10/381,299

Corrected Declaration

are being deposited in a single envelope with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. 1.10 on the date indicated above and such envelope is addressed to the Assistant Commissioner of Patents, Box PCT, Washington, D.C. 20231.

Maria Erlinda C. Sarno
Attorney for Applicants
Registration No. 37,436

P.O. Box 1023
Artesia, CA 90702
Telephone: (562) 402-0418

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
DESIGNATED/ELECTED OFFICE (DO/EO/US)

Certificate of Mailing

I certify that this correspondence is being deposited with the United States Postal Service on the date indicated below with sufficient postage as express mail in an envelope addressed to: Box PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450

Maria Erlinda C. Sarno
Reg. No. 37,436

10-28-03
Date of Deposit

In re Application of Benavides Terrazas, J. and Faraon-Chaul Zakka, J. Cesar	
	Group Art Unit:
Serial No. PCT/MX01/00036 10/381,299	Examiner:
Filed:March 24, 2003 (US) June 13, 2001 (International)	
For: WASHABLE ECOLOGICAL NON-DISPOSABLE FILTER FOR USE WITH LUBRICANT OILS AND FUELS	

CORRECTED DECLARATION

Honorable Commissioner for Patents
P.O. Box 1450, Alexandria, VA 22313-1450

Sir:

In response to the notice of a defective declaration on page 2 of the communication received (a copy is enclosed for reference) regarding the petition to revive which was granted, attached please find the corrected declaration inserting the word ※first※.

Please charge any fee due from my deposit account 500255.

Respectfully submitted,

Maria Erlinda C. Sarno
Attorney for Applicant
Registration No. 37,436

P.O. Box 1023
Artesia, CA 90702
Telephone: (562) 402-0418

17 SEP 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
PO Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Maria Erlinda C. Sarno
PO Box 1023
Artesia, CA 90702

In re Application of Benavides Terrazas et al. US Application No.: 10/381,299 PCT Application No.: PCT/MX01/00036 International Filing Date: 13 June 2001 Priority Date: 13 June 2000 For: WASHABLE, NON-DISPOSABLE ECOLOGICAL FILTER FOR LUBRICANTS AND FUELS	**DECISION ON PETITION FOR REVIVAL UNDER 37 CFR 1.137(b)**

The petition to revive under 37 CFR 1.137(b), filed on 24 March 2003 in the above-captioned application, is hereby **GRANTED** as follows.

On 13 June 2001, Applicants filed international application PCT/MX01/00036, which claimed priority of an earlier application filed on 13 June 2000. A copy of the international application was communicated from the International Bureau to the USPTO on 20 December 2001. A demand for international preliminary examination, in which the United States was elected, was filed on 31 December 2001, prior to 13 January 2002, the end of the 19-month period from the 13 June 2000 priority date. The period for paying the basic national fee is thus 30 months and ended at midnight on 13 December 2002.

The basic national fee was not paid on or before 13 December 2002. The international application became abandoned as to the United States on 14 December 2002.

The instant petition encloses, *inter alia*:

(1) A transmittal letter for entry into the national stage in the United States under 35 U.S.C. 371, along with the $530 basic national fee (small entity) required by 35 U.S.C. 371(c)(1) and 37 CFR 1.492(a)(3);

(2) The $650 petition fee (small entity);

(3) A statement to the effect that the entire delay in filing the basic national fee from its due date until the filing of the instant §1.137(b) petition was unintentional.

Moreover, a terminal disclaimer is not applicable in the instant case.

The request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the national stage in the United States of America.

Applicants' claim for priority is acknowledged. The application has an international filing date of 13 June 2001 under 35 U.S.C. 363.

However, the declaration submitted with the petition states that the named inventors believe that they are the "original" inventors of the claimed subject matter in this application, rather than the "original and first" inventors, as required by the U.S. patent statute. 35 U.S.C. 115; 37 CFR 1.497(a)(4). The declaration is thus defective and not accepted.

The application is being returned to the National Stage Processing Division of the Office of PCT Operations for continued processing, including mailing of a Notification of Missing Requirements under 35 U.S.C. 371, requiring an oath or declaration in compliance with 37 CFR 1.497(a)-(b).

Leonard Smith
PCT Legal Examiner
PCT Legal Office

RC Tang
Petitions Attorney
PCT Legal Office
Telephone: 703-308-1315
Facsimile: 703-308-6459

DECLARATION FOR PATENT APPLICATION

I hereby declare that I believe I am the original, first and joint inventor of the subject matter which is claimed and for which a patent is sought on the invention entitled WASHABLE, NON-DISPOSABLE ECOLOGICAL FILTER FOR LUBRICANTS AND FUELS, the specification of which is attached hereto.

This declaration is directed to the U.S. application of the international application, PCT/MX 01/00036 of which it forms a part.

I hereby declare that my residence, post office address and citizenship are as stated below next to my name.

I hereby state that I have reviewed and understand the contents of the above identified international application, including the claims of said application. I have identified in the request of said application, in compliance with PCT Rule 4.10, any claim to foreign priority, and I have identified below, under the heading "Prior Applications," by application number, country or Member of the World Trade Organization, day, month, and year of filing, any application for a patent or inventor's certificate filed in a country other than the United States, including any PCT international application designating at least one country other than the United States of America, having a filing date before that of the application on which foreign priority is claimed:

Prior Applications: 005837 Filed in Mexico, 13 June 2000
PCT/MX01/00036 filed 13 June 2001

I hereby acknowledge the duty to disclose information which is material to the patentability as defined in Title 37, Code of Federal Regulations, s. 1.56, including for continuation-in-part applications, material information which became available between the filing date of the prior application and the PCT international filing date of the continuation-in-part application.

As named inventors, we hereby appoint the following attorney to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith:

Maria Erlinda C. Sarno
Reg. No. 37,436

Address all correspondence and telephone calls to:

Maria Erlinda C. Sarno
P.O. Box 1023
Artesia, CA 90702
Tel. No. 562-402-0418 Fax: 562-860-6171

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.

Julian Benavides Terrazas
Lago Erie #36 Col. Tacuba
C.P. 11410, Mexico, D.F.
Mexico
Citizenship: Mexico

J. Cesar Faraon-Chaul Zakka
Lago Erie #36 Col. Tacuba
C.P. 11410, Mexico, D.F.
Mexico
Citizenship: Mexico

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

3-12-07

wk

In re Application of	:	
Terrazas et. al.	:	
Serial Number: 10/381,299	:	DECISION
Filed: December 19, 2003	:	ON
For: WASHABLE, NON-DISPOSABLE ECOLOGICAL FILTER FOR LUBRICANT AND FUELS	:	PETITION

This is in response to the request filed November 29, 2006, requesting permission for withdrawal as attorney from the above-identified application.

The Commissioner of Patents and Trademarks requires that there be at least 30 days between approval of 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). This is so that the applicant will have sufficient time to obtain other representation or take other action. If a period has been set for reply and the period may be extended without a showing of cause pursuant to 37 CFR 1.136(a) by filing a petition for extension of time and fee, the practitioner will not be required to seek such extension of time for withdrawal to be approved. In such a situation, however, withdrawal will not be approved unless at least 30 days would remain between the date of approval and the last date on which such a petition for extension of time and fee could properly be filed.

In this case there is less than thirty days between approval of withdrawal of the current attorney of record and the expiration date of a time response period.

The Request is **Denied**.

JKStone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Maria Erlinda C Sarno
PO Box 1023
Artesia CA 90702

14 SEP 2004

#4

UNITED STATES PATENT and TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
ALEXANDRIA, VA 22313-1450
www.uspto.gov

IP Department
Piper Rudnick LLP
3400 Two Logan Square
18th and Arch Street
Philadelphia, PA 19103

In re Application of	:	
INOKUTI et al	:	
Application No.: 10/381,306	:	
PCT No.: PCT/JP03/00498	:	
Int. Filing Date: 22 January 2003	:	DECISION
Priority Date: 22 January 2002	:	
Atty. Docket No.: 1045-03	:	
For: CERAMIC COATED	:	
INSTRUMENTS FOR...	:	

This is in response to the facsimile transmission received in the U.S. Patent and Trademark Office (PTO) on 04 March 2004.

The present application is abandoned for failure to respond to the Notification of Missing Requirements (Form PCT/DO/EO/905) mailed 10 June 2003.

The present submission includes numerous copies of documents, checks and postcard receipts. However, the submission is improper in that it has not been signed, and no explanation has been given as to how the papers are to be treated.

If it is applicants' intention to request that the papers which accompanied the submission be treated as having been earlier filed then a properly signed petition requesting withdrawal of the Notification of Missing Requirements and the resulting holding of abandonment must be filed. Any such petition must include a statement indicating that the copies of the papers are true copies of those which were originally filed. Any such petition should also include an explanation of the delay between the mailing of the Notification of Missing Requirements and the filing of the petition.

Please direct further correspondence with respect to this matter to the Commissioner for Patents, Mail Stop PCT, Alexandria, VA 22313-1450, and address the contents of the letter to the attention of the Office of PCT Legal Administration.

This application will be retained in the Office of PCT Legal Administration for the period of ONE (1) MONTH. If no reply has been filed within that period the application will be forwarded to the National Stage Processing Branch of the International Division for the mailing of a notice of abandonment.

Richard R. Cole
PCT Legal Examiner
Office of PCT Legal Administration

(703)305-6639
(571) 272-3281 (after 9/30/04)
RRC:rrc

29 SEP 2004

#6

UNITED STATES PATENT and TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
PO BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

IP Department
Piper Rudnick LLP
3400 Two Logan Square
18th and Arch Street
Philadelphia, PA 19103

In re Application of	:	
INOKUTI et al	:	
Application No.: 10/381,306	:	
PCT No.: PCT/JP03/00498	:	
Int. Filing Date: 22 January 2003	:	DECISION
Priority Date: 22 January 2002	:	
Atty. Docket No.: 1045-03	:	
For: CERAMIC COATED	:	
INSTRUMENTS FOR...	:	

This is in response to the facsimile transmission received in the U.S. Patent and Trademark Office (PTO) on 17 September 2004, which has been treated as a petition under 37 CFR 1.181 requesting withdrawal of the holding of abandonment. The petition was accompanied by, *inter alia,* copies of the papers allegedly filed 15 April 2003, and a copy of a postcard receipt. The petition is **GRANTED** as discussed below.

A review of the application file reveals that applicant has provided sufficient evidence to establish that, *inter alia,* a declaration of the inventors was filed on 15 April 2003. The proof is in the form of the copy of the postcard receipt for the present application which bears a PTO datestamp of "15 APR 2003" and which itemizes, inter alia, an "executed Combined Declaration, Power of Attorney". Therefore, in view of the postcard receipt and counsel's statement in the present petition that the copies of the papers as submitted with the present petition are a "true copies of all documents submitted," the copy of the declaration may properly be accepted as having been originally filed on 15 April 2003.

The NOTIFICATION OF MISSING REQUIREMENTS (Form PCT/DO/EO/905) mailed 10 June 2003, is hereby **VACATED**, and the holding of abandonment is hereby **WITHDRAWN**.

The application has an international filing date of 22 January 2003, under 35 U.S.C. 363, and a 35 U.S.C. 102(e) and 371(c)(1), (2), and (4) date of **15 April 2003**.

This application is being forwarded to the National Stage Processing Branch of the International Division for further processing in accordance with this decision.

Richard R. Cole
PCT Legal Examiner
Office of PCT Legal Administration

(703)305-6639
(571) 272-3281 (after 9/30/04)
RRC:rrc

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 2/7/08

Paper No.: —

TO SPE OF : ART UNIT 2111

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/381311 Patent No: 7277973 B2

A response is requested with respect to a request for a certificate of correction.

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within **7** days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within **7** days, to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

VIRGINIA TOLBERT
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- [x] **Approved** — **All** changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: _____

MAR 0 4 2008

MARK H. RINEHART
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

SPE

2111
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 8-16-07

DATE : April 22, 2007

TO SPE OF : ART UNIT 1733 10/381313

SUBJECT : Request for Certificate of Correction on Patent No.: 7152642 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.

Thank You For Your Assistance

Elisha Evans
Certificates of Correction Branch
Tel. No. 703-308-9390 EXT 110

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:

Correction requested was incurred through fault of the Office, and the matter is clearly disclosed in the records of the Office. See preliminary amendment filed 3-25-03 and bib data sheet dated 9-9-05 in e-Dan.

SPE 1733 **Art Unit**

27 SEP 2004

#5

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

Lawrence E. Ashery
RatnerPrestia
PO Box 980
Valley Forge, PA 19482-0980

In re Application of	:	
NY et al.	:	
Application No.: 10/381,322	:	DECISION ON PETITION
PCT No.: PCT/US01/29530	:	
Int. Filing Date: 20 September 2001	:	
Priority Date: 22 September 2000	:	
Attorney Docket No.: ITC-320	:	
For: APPARATUS AND METHOD FOR BALANCING AND FOR PROVIDING A COMPLIANT RANGE TO A TEST HEAD		

This decision is in response to applicant's "Petition under 37 CFR 1.181" filed 13 September 2004.

BACKGROUND

On 20 September 2001, applicant filed international application PCT/US01/29530 which claimed a priority date of 22 September 2000. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 22 March 2003.

On 24 March 2003, applicant filed a Transmittal Letter for entry into the national stage accompanied, *inter alia,* by: the requisite basic national fee; a copy of the international application; and an information disclosure statement.

On 24 June 2003, the United States Designated Office (DO/EO/US) mailed a Notification Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that a signed oath/declaration of the inventors in compliance with 37 CFR 1.497(a) and (b) together with a surcharge payment were required. The notification set a two-month time limit in which to respond.

On 13 September 2004, applicant filed the present petition which was accompanied, among other things: a copy of the declaration(s) and power of attorney(s) filed 01 July 2003; post card receipt dated 01 July 2003; and a copy of a transmittal letter.

DISCUSSION

Applicant states in their present petition that a declaration and power of attorney was received at the United States Patent and Trademark Office on 01 July 2003. A review of the present application reveals that the declaration and power of attorney filed 01 July 2003 is not located therein. Section 503 of the Manual of Patent Examining Procedure under the heading "RETURN POSTCARD" states, in part:

> "A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO."

Here, applicant has provided a copy of their date-stamped filing receipt. The receipt identifies the application by applicant, application number; and attorney docket number. The receipt itemizes declarations executed by the joint-inventors. The receipt is stamped "Rec'd. PCT/PTO 01 JUL 2003" across its face is sufficient to indicate that the declaration and power of attorney was in fact received in the Office on 01 July 2003.

CONCLUSION

Applicant's petition under 37 CFR 1.181 is **GRANTED**.

This application will be given an international filing date of 20 September 2001 and a date of **01 July 2003** under 35 U.S.C. 371. The application is being returned to the United States Designated/Elected Office for further processing in accordance with this decision.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (703) 308-6314
Fax: (703) 308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Date Mailed : March 12, 2007

Patent No. : 7,084,358
Inventor : Nil O. NY, et al.
Patent Issued :August 1, 2006
Title :APPARATUS AND METHOD FOR BALANCING AND FOR PROVIDING A
:COMPLIANT RANGE TO A TEST HEAD

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.

Inspection of the application for the patent reveals, however, that in connection with the alleged errors to which applicant refer; column 10, line 65 claim 17 is printed in accordance with the record in the Patent and Trademark Office as passed to issue by the examiner. There being no fault on the part of the Patent and Trademark Office, it has no authority to a issue certificate of correction under the provisions of 35 U.S.C. 254 and Rule 322 of the Rules of Practice of the United States Patent and Trademark Office in Patent Cases.

In view of the foregoing applicants request in this matter is hereby denied.

Further correspondence concerning this matter should be filed and directed to Decisions & Certificate of Correction Branch. Any telephone inquiry concerning this communication should be directed to Ms. A. Green at (703) 308-9380 ext. 123.

Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 or (703) 308- 9380 ext. 123

Ratner Prestia
P.O. Box 980
Valley Forge, PA 19482

CBN/arg

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Morrison & Foerster LLP
12531 High Bluff Drive
Suite 100
San Diego, CA 92130-2040

COPY MAILED

JUN 07 2007

OFFICE OF PETITIONS

In re Application of	:	
Johannes Petrus Theodorus Wihelmus Van Den Hombergh et al.	:	
Application No. 10/381,328	:	DECISION ON PETITION
Filed: August 25, 2003	:	TO WITHDRAW
Attorney Docket No. 251502008100	:	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 19, 2006.

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 October 19, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Terri Williams at 571-272-2991.

Terri Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Nixon & Vanderhye, PC**
901 North Glebe Road
11th Floor
Arlington, VA 22203

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.go

#3

12 MAY 2003

Diana Hamlet-Cox
Incyte Genomics Inc.
3160 Porter Drive
Palo Alto, CA 94304

In re Application of	:	DECISION ON
TANG et al.	:	
Application No.: 10/381,333	:	PETITION UNDER
PCT No.: PCT/US01/29451	:	
Int. Filing Date: 20 September 2001	:	37 CFR 1.182
Priority Date: 21 September 2000	:	
For: PROTEIN PHOSPHATASES	:	

This is a decision on applicant's "Communication Re: Inventor Name Change" treated as a petition under 37 CFR 1.182, filed with the United States Patent and Trademark Office (USPTO) on 20 March 2003. Applicant requests that the application reflect joint inventor Narinder K. Walia family name change from Narinder K. Walia to Narinder K. Chawla. The $130 petition fee was authorized to be paid from applicants' deposit account.

On 20 March 2003, within 30 months from priority date of the international application, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*,: the requisite basic national fee and an executed declaration. The published international application indicated that the inventor/applicant for the United States of America included Narinder K. Walia as a named joint inventor.

On 20 March 2003, applicant also filed the instant communication indicating that joint inventor Narinder K. Walia married and changed her family name to Narinder K. Chawla subsequent to the filing of the international application, along with an affidavit signed by Narinder K. Walia indicating the reason for the name change.

DISCUSSION

As explained in MPEP 605.04(c), applicants must provide a signed affidavit setting forth both names and the procedure whereby the change of name was effected, or a certified copy of the court order. Here, applicant submitted the statement of Narinder K. Walia regarding her respective change of name. Applicant submitted her signed affidavit setting forth the procedure whereby the change of name was effected and identifying both names of applicant, Narinder K. Walia and Narinder K. Chawla. Thus, the evidence is sufficient to conclude that Narinder K. Walia changed her name by marriage to Narinder K. Chawla.

Walia changed her name by marriage to Narinder K. Chawla.

CONCLUSION

The petition under 37 CFR 1.182 to change the inventor's name Narinder K. Walia to Narinder K. Chawla is **GRANTED**.

The declaration submitted on 20 March 2003 is acceptable as filed. The application will be forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371 date is **20 March 2003**.

Applicant is advised that any further correspondence with respect to this matter deposited with the United States Postal Service should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: 703-306-5467

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 9-28-07

Paper No.: _____

TO SPE OF : ART UNIT 2617

SUBJECT : Request for Certificate of Correction for Appl. No. 7054647 B2 C 10/381348

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Please response A/S/A/P. Attorney + Applicant want to know The Status

E M James

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.

- [x] **Approved** — All changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: _____

CHARLES N. APPIAH
SUPERVISORY PATENT EXAMINER

SPE

2617
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No.

Friedrich Kueffner
Suite 910
317 Madison Avenue
New York NY 10017

COPY MAILED

JAN 27 2009

OFFICE OF PETITIONS

In re Application of	:	
Grafe et al.	:	DECISION ON PETITION
Application No. 10/381,356	:	
Filed: March 26, 2003	:	
Atty Docket No. HM-515PCT	:	

This is in response to the REQUEST TO WITHDRAW HOLDING OF ABANDONMENT, filed December 22, 2008.

The above-identified application became abandoned for failure to timely file a reply to the non-final Office action mailed May 29, 2008. This Office action set a shortened statutory period for reply of three (3) months, 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 August 30, 2008. A courtesy Notice of Abandonment was mailed on December 12, 2008.

In response, applicants timely filed the instant petition. Applicants contend a response was filed with a three-month extension of time on December 1, 2008. In support thereof, applicants submit a copy of their return postcard and a copy of the response as originally filed.

Petitioner's evidence has been reviewed, and is persuasive. However, consideration of their evidence is unnecessary. Their response, including an extension of time, is present in the application with a date of receipt of December 3, 2008. Further, both the response and the necessary extension of time include a certificate of mailing in compliance with 37 CFR 1.8 signed and dated December 1, 2008.

Further, the three-month extension of time, required to make the response timely, is of record paid by credit card with a mail room date of December 3, 2008.

Accordingly, the Notice of Abandonment mailed December 12, 2008 and the holding of abandonment are hereby **WITHDRAWN**.

The petition under § 1.181 is **GRANTED**.

No fee is required on petition under § 1.181.

Technology Center AU 3724 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 consideration by the examiner of the response timely filed on December 3, 2008 (with a certificate of mailing dated December 1, 2008).

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

jm

Mailed: 7-18-06

In re application of
Mihan et al.
Serial No. 10/381,366
Filed : March 25, 2003
For: METHOD FOR PRODUCING HIGHLY BRANCHED ETHYLENE POLYMERS

DECISION ON PETITION

This is a decision on the PETITION UNDER 37 CFR 1.144 REQUESTING WITHDRAWAL OF THE RESTRICTION REQUIREMENT made final in the office action mailed July 26, 2005.

On February 4, 2005 the examiner made a restriction requirement applied to a newly submitted claim under 35 USC 121 and 372 based upon a finding that the claims lack unity of invention as defined in PCT Rules 13.1 and 13.2. In the subsequent response filed May 9, 2005, applicants traversed the requirement and added additional claims. The examiner maintained the restriction in an office action mailed on July 26, 2005, and further applied the restriction to new claims, and made the requirement final.

The instant petition was filed on November 28, 2005 requesting that the requirement for restriction be withdrawn. Petitioner argues that the claims have unity of invention in that all the claims include a common special technical feature. Specifically, applicant argues that claims 13 and 15 are dependent upon claim 1 and therefore share a special technical feature.

DECISION

The instant application has been filed under 35 USC 371 as a national phase application of PCT/EP01/11239 and as such is subject to the unity requirements set out in PCT Rules 13.1-13.4 and 37 CFR 1.475, as well as the PCT Administrative Instructions, Annex B. MPEP 1893.03(d) permits grouping of claims that are linked to form a single general inventive concept where there is a technical relationship among the inventions that involves at least one common or corresponding technical feature.

The PCT Administrative Instructions, Annex B, Part 1 at (b) state that "the special technical features" common to all groupings of inventions shall be defined, as in PCT Rule 13.2, to mean,

"those technical features which each of the claimed inventions, considered as a whole, makes over the prior art".

In the office action mailed February 4, 2005, the examiner took the position that newly added claim 13 to a process of using a product made by the process of claim 1 is directed to a process

different from that of claim 1. In the office action mailed July 26, 2005, the examiner took the position that newly added claim 15 to a product made by the process of claim 1 is restricted for similar reasons. The examiner makes the argument that the process of claim 1 limits neither claims 13 or 15.

PCT Administrative Instructions, Annex B, Part 1 at (e) state that

"the method for determining unity of invention under Rule 13.2 shall be construed as permitting, in particular, the inclusion of any one of the following combinations of claims of different categories in the same international application: (i) in addition to an independent claim for a given product, an independent claim for a process specially adapted for the manufacture of the said product, and an independent claim for a use of the said product".

Since the claims include an independent claim for a product, an independent claim for a process specially adapted for the manufacture of said product, and an independent claim for a use of said product, and the process is specially adapted for the manufacture of the product, the requirement for restriction based upon the lack of a shared technical feature was improper. Additionally, the examiner did not provide any reasoning or rational for a holding of lack of unity. Simply stating that the claims are not limited by their independent claim does not provide reasoning for holding of lack of unity.

Accordingly, the petition is **GRANTED.** The application is being forwarded to the examiner, withdraw the restriction requirement and examine the previously non-elected claims.

It is noted that the set of claims submitted after-final on November 28, 2005 and entered by the examiner on December 23, 2005 were not complete. A complete set of claims must be submitted for the record.

Jacqueline M. Stone

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

NOVAK DRUCE DELUCA & QUIGG, LLP
1300 EYE STREET NW
SUITE 400 EAST
WASHINGTON DC 20005

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

CIPHERGEN c/o FOLEY & LARDNER LLP
3000 K STREET NW
SUITE 500
WASHINGTON, DC 20007

COPY MAILED

APR 15 2008

OFFICE OF PETITIONS

In re Application of	:	
VLAHOU, Antonia et a.	:	
Application No. 10/381,369	:	DECISION ON PETITION
Filed: August 21, 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 March 25, 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 Stephen A. Bent on behalf of all attorneys of record who are associated with customer No. 54077. 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 November 23, 2007 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: **ANTONIA VLAHOU**
521 BOISSEVAIN AVENUE
APT. D
NORFOLK, VA 23507

cc: **HENRY WIXON**
WILMERHALE
1875 PENNSYLVANIA AVE., NW
WASHINGTON, D.C. 20006

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

COPY MAILED
SEP 18 2007
OFFICE OF PETITIONS

MORRISON & FOERSTER, LLP
555 WEST FIFTH STREET
SUITE 3500
LOS ANGELES CA 90013-1024

Applicant: Klee et al.
Appl. No.: 10/381,381
International Filing Date: September 28, 2001
Title: E-PTFE FOIL IMPREGNATED WITH AN ENCAPSULATED BIOATIVE SUBSTANCE
Attorney Docket No.: 480052000500
Pub. No.: US 2004/0029993 A1
Pub. Date: February 12, 2004

This is a decision on the requests for a corrected patent application publication under 37 CFR 1.221(b), received on October 18, 2006, for the above-identified application

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains a material error in that the publication includes an incorrect abstract.

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed **within two months** from the date of the patent application publication. **This period is not extendable**." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. [1]

The request for corrected publication, received on October 18, 2006, was not timely filed under 37 CFR 1.221(b).

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

[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239, Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

the application compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system, as a "Pre-Grant Publication" and questions or request for reconsideration of the 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: 571-273-8300

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709.

Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MORRISON & FOERSTER, LLP
555 WEST FIFTH STREET
SUITE 3500
LOS ANGELES, CA 90013-1024

COPY MAILED

NOV 2 4 2008

OFFICE OF PETITIONS

In re Application of	:	
Doris Klee, et al.	:	
Application No. 10/381,381	:	DECISION ON PETITION
Filed: August 12, 2003	:	TO WITHDRAW
Attorney Docket No. 480052000500	:	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 23, 2008.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Morrison & Foerster, LLP has been revoked by the assignee of the patent application on May 16, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to undersigned at 571-272-1642.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: TODD W. WRIGHT
RUTAN & TUCKER, LLP
611 ANTON BOULEVARD
SUITE 1400
COSTA MESA, CA 92626-1931

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

STEPHAN A. PENDORF, P.A.
PENDORF & CUTLIFF
5111 MEMORIAL HIGHWAY
TAMPA, FL 33634

COPY MAILED
DEC 0 8 2006
OFFICE OF PETITIONS

In re Application of	:	
Gerhard Schmaus, et. al.	:	
Application No. 10/381,386	:	ON PETITION
Filed: March 25, 2003	:	
Attorney Docket No. 3968.081	:	

This is a decision on the petition under 37 CFR 3.81(b)[1], filed by facsimile transmission on May 9, 2006, to correct the name of the assignee on the Fee(s) 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 "SYMRISE GMBH & CO. KG" and that the incorrect assignee's name was unintentionally included on the Fee(s) Transmittal form PTOL-85(b) at the time of payment of the issue fee. Accordingly, petitioner requests that the patent issue to "SYMRISE GMBH & CO. KG".

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 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(b), the request cannot be granted at this time.

A review of Office database assignment records reflects that an assignment to "SYMRISE GMH & CO. KG" 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 "SYMRISE GMH & CO. KG" was the assignee of record at the time of issuance of the application into a patent. *Note also* 35 U.S.C. § 152.

In view of the above and **after issuance of this application into a patent, the Certificates of Correction Branch is instructed to issue a certificate of correction <u>upon submission by petitioner of a request for a certificate of correction (and fee) which sets forth "SYMRISE GMH & CO. KG", as the assignee</u>**. *No certificate of correction will be issued which sets forth an assignee other than the assignee set forth in this request. A copy of this decision* ***<u>must</u>*** *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 this request, as this decision operates as an instruction to the Certificates of Correction Branch to issue the requested certificate of correction.

To clarify the USPTO assignments records, it is suggested that petitioner submit a corrected assignment cover sheet to show DRAGOCO GERBERDING & CO. AG as the conveying party (Assignor) for the above patent, which is recorded in the U.S. Patent and Trademark Office at reel/frame number 014895/0545.

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 the undersigned at (571) 272-3226. Any questions concerning 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

01 FEB 2005

#7

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

Joerg-Uwe Szipl
Griffin & Szipl, P.C.
Suite PH-1
2300 Ninth Street, South
Arlington, VA 22204

In re Application of RESCHEWITZ Application No.: 10/381,391 Filing Date: 21 March 2003 Atty. Docket No.: KREIS0016 For: CLOTHING PIECE	DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 22 October 2004 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the reply until the filing of this petition was unintentional" and the prompt filing of the petition satisfies the requirement of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has now provided an executed declaration of the inventor, an English translation of the international application and payment of the appropriate surcharges and processing fees. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America. Further, a review of the application file reveals that all of the requirements of 35 U.S.C. 371 for entry into the national stage in the United States have been satisfied.

The application has an international filing date of 21 September 2001 under 35 U.S.C. 363 and will be given a date of **22 October 2004** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for treatment in accordance with this decision.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459

06 NOV 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

#5

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Bruce B. Brunda
Stetina Brunda Garred & Brucker
75 Enterprise, Suite 250
Aliso Viejo, CA 92656

In re Application of	:	
MICHAELSON, Nicholas David	:	
Application No.: 10/381,392	:	
PCT No.: PCT/GB01/04197	:	
Int. Filing Date: 20 September 2001	:	DECISION ON PETITION
Priority Date: 20 September 2000	:	UNDER 37 CFR 1.181
Atty. Docket No.: SOMMR-008US	:	
For: CORRECTING THE POSITION OF PRINT	:	

This is a decision on applicant's "Response to Notification of Missing Requirements" filed 20 September 2003, which is being treated as a Petition under 37 CFR 1.181.

BACKGROUND

On 20 September 2001, applicant filed the above-identified application which claimed a priority date of 20 September 2000. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 28 March 2002. A Demand for international preliminary examination was filed prior to the expiration of nineteen months from the priority date. As a result, the deadline for payment of the basic national fee was to expire 30 months from the priority date, 20 March 2003.

On 20 March 2003, applicant filed a transmittal for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1) and a copy of the international application.

On 29 July 2003, the United States Designated/Elected Office mailed a Notification of Missing Requirements (PCT/DO/EO/905) requiring submission of an oath or declaration in compliance with 37 CFR 1.497 and the surcharge under 37 CFR 1.492(e).

On 02 September 2003, applicant filed "Response to Notification of Missing Requirements" which was accompanied by a copy of the declaration filed on March 20, 2003 and a postcard receipt evidencing its receipt in the Patent and Trademark Office on March 20, 2003 and requests, in effect, that the copy of the declaration be accepted as a true copy of the declaration filed March 20, 2003.

DISCUSSION

Applicant states in their present petition that, "[i]n our initial United States patent application mailing of March 20, 2003 to the Patent and Trademark Office, it is under our belief that the Declaration was submitted for filing." A review of the application file reveals that the declaration/power of attorney filed on 20 March 2003 is not located therein. Section 503 of the Manual of Patent Examining Procedure under the heading "RETURN POSTCARD" states, in part:

> "A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO."

Here, applicant has provided a copy of their date-stamped filing receipt. The receipt identifies the application by the title of invention and the docket number. The evidence submitted by applicants, consisting of a postcard receipt with a PCT/PTO mailroom date stamp of 20 March 2003 which itemizes all the papers filed on said date including: a declaration of inventor; assignment and recordation cover sheet[1]; preliminary amendment; and a check for the filing fees/assignment recordation in the amount of $527. The postcard receipt bearing the serial number, title of invention, and attorney docket number is sufficient to indicate that the above papers were received on 20 March 2003.

CONCLUSION

The petition under 37 CFR 1.181 is **GRANTED**.

In view of the declaration filed 20 March 2003, the Notification of Missing Requirements (Form PCT/DO/EO/905) dated 19 May 2003 is hereby **VACATED**.

This application is being returned to the United States/Elected Office for processing in accordance with this decision.

Anthony Smith

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Telephone: (703) 308-6314
Facsimile: (703) 308-6459

---

[1]A review of the application file reveals that the assignment and recordation cover sheet filed on 20 March 2003 are not located therein. Applicant should file a copy of the assignment and recordation cover sheet with the Assignments Branch.

11 SEP 200

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
PO Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Armstrong, Westerman & Hattori, LLP
1725 K Street, NW, Suite 1000
Washington, DC 20006

In re Application of Takashima et al. US Application No.: 10/381,433 PCT Application No.: PCT/JP01/08556 International Filing Date: 28 September 2001 Priority Date: 28 September 2000 Attorney's Docket No.: 030317 For: METAL CATALYST FOR RING-OPENING POLYMERIZATION OF HETEROCYCLIC COMPOUND	DECISION ON PETITION TO CHANGE INVENTOR NAME UNDER 37 CFR 1.182

This decision is in response to the "Petition under 37 CFR 1.182" filed on 25 August 2003 in the above-captioned application, requesting name change for one of the inventors. The petition is **GRANTED** as follows.

BACKGROUND

On 28 September 2001, Applicants filed international application PCT/JP01/08556, which claimed priority of an earlier application filed on 28 September 2000. A copy of the international application, in Japanese, was communicated from the International Bureau to the USPTO on 04 April 2002. The period for paying the basic national fee is 30 months and ended at midnight on 28 March 2003.

On 28 March 2003, Applicants filed a transmittal letter for entry into the national stage in the United States (Form PTO-1390), along with, *inter alia*, the $900 basic national fee required by 35 U.S.C. 371(c)(1) and 37 CFR 1.495(a)(5), and an English translation of the international application, but not an oath or declaration.

On 31 July 2003, a "Notification of Missing Requirements under 37 CFR 371 in the United States Designated/Elected Office (DO/EO/US)" was mailed, requesting submission of an oath or declaration in compliance with 37 CFR 1.497(a) and (b). The instant petition then followed.

DISCUSSION

Under MPEP 605.04(c) (Rev. 1, Feb. 2003), when an inventor changes his/her name after the application has been filed and desires to use the new name in the application, a petition must be filed under 37 CFR 1.182, along with the requisite fee and (1) an affidavit signed by this inventor, and setting forth the procedure whereby the name change was effected; or (2) a certified copy of the court order effecting the name change.

The "Declaration of Change of Name" filed with the instant petition, signed by Yoko SAKURAI, explains that her name has been changed from TAKASHIMA due to marriage. The "Declaration for U.S. Patent Application" also accompanying the petition is executed by both inventors, with Yoko SAKURAI signing in her new name. The $130 surcharge for filing a proper oath or declaration after commencement of the national stage was submitted on 28 March 2003. Moreover, the $130 petition fee is enclosed with the petition.

CONCLUSION

In view of the above, the petition is granted.

The "Declaration for U.S. Patent Application" filed with the instant petition, with the grant of the petition, complies with the requirements of 37 CFR 1.497(a) and (b). Consequently, Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 28 September 2001 under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 25 August 2003.

The application is being returned to the National Stage Processing Division of the Office of PCT Operations for continued processing, including correcting the USPTO records to indicate "SAKURAI" as the last name of the first named inventor for this application.

Richard Cole
PCT Legal Examiner
PCT Legal Office

RC Tang
Petitions Attorney
PCT Legal Office
Telephone: 703-308-1315
Facsimile: 703-308-6459

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : November 13,2007

TO SPE OF : ART UNIT 1652

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/381,434 Patent No.: 7256031 B2

A response is requested with respect to a request for a certificate of correction.

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within **7** days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

DO NOT SENT TO ATTORNEY

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within **7** days, to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

You can fax the Directors/SPE response to 571-270-9990

LAMONTE NEWSOME

Certificates of Correction Branch

703-308-9390 ext. 112

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☐ **Approved** — **All** changes apply.
- ☑ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: Column 16, Line 17 – recitation not found

Column 21, line 37, line 38, Column 27, line 7, Column 34, line 33 — All lead to change in sequence of amino acid. Potential new matter issue

1652

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT
1940 DUKE STREET
ALEXANDRIA VA 22314

COPY MAILED

SEP 12 2005

OFFICE OF PETITIONS

In re Application of :
Kazuto Okada et al :
Application No. 10/381,435 :
Filed: March 31, 2003 :
Attorney Docket No. 235375US2PCT :

ON PETITION

This is a decision on the petition, filed September 12, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on May 31, 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 3742 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. _____

Date : September 12, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Kazuto Okada et al
Application No. :10/381,435
Filed :March 31, 2003

The above-identified application has been assigned Patent No. 6,943,328 and an issue date of September 13, 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 September 13, 2005:

"All reference to Patent No. 6,943,328 to Kazuto Okada et al of Japan for RAW TIRE PREHEATING METHOD AND APPARATUS THEREFORE appearing in the Official Gazette of September 13, 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 1/27/09

TO SPE OF : ART UNIT 1651

SUBJECT : Request for Certificate of Correction for Appl. No.: 10381442 Patent No.: 7419809 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

[redacted]

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: _____

SPE

1651
Art Unit

15 DEC 2006

#10

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

Jeffrey E. Griffin
WesternGeco, LLC
Intellectual Property Department
10001 Richmond Avenue
Houston, Texas 77042

In re Application of HOCQUET et al. U.S. Application No. 10/381,452 PCT No.: PCT/IB01/01758 Int. Filing Date: 26 September 2001 Priority Date: 28 September 2000 Attorney Docket No.: 14.0176-PCT-US For: DEFLECTOR DEVICES	: : : : : : : :	DECISION ON PETITION

This decision is issued in response to applicants' "Petition to Revive an Unintentionally Abandoned Application under 37 CFR 1.137(b)" and "Renewed Petition under 37 CFR 1.47(a)" filed 30 November 2006 to accept the application without the signature of joint-inventor, Philippe Saint-Pere.

BACKGROUND

On 26 September 2001, applicants filed international application PCT/IB01/01758 which claimed a priority date of 28 September 2000. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 18 April 2002. Accordingly, the thirty-month time period for submitting the requisite basic national fee in the United States of America was to expire 30 months from the priority date, i.e., 28 March 2003

On 25 March 2003, applicants filed a transmittal letter for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c))(1) and a copy of the international application.

On 26 August 2003, the United Stated Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

On 25 September 2003, applicant filed a petition under 37 CFR 1.47(a). In a decision dated 11 May 2004, applicant's petition was dismissed without prejudice.

On 09 January 2006, the United States Designated/Elected Office (DO/EO/US)

mailed a NOTIFICATION OF ABANDONMENT UNDER 35 U.S.C. 371 (Form PCT/DO/EO/909) indicating that the application was abandoned for failure to respond to the Decision mailed 11 May 2004.

On 30 November 2006, applicant filed the present petitions under 37 CFR 1.137(b) and 37 CFR 1.47(a).

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional delay must be accompanied by: (1) the required reply, (2) the petition fee required by law, (3) a statement that the "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional," and (4) any terminal disclaimer and fee required pursuant to 37 CFR 1.137(c). Applicants have satisfied Items (1)-(4).

In order to comply with the proper response requirement of item (1) above for revival under 37 CFR 1.137(b), applicant submitted the present Petition Under 37 CFR 1.47(a). Under the present circumstances, in order for the response requirement, item (1) above, to be satisfied, the petition to accept the application without the signature of joint-inventor Philippe Saint-Pere must be grantable.

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and behalf of the non-signing joint inventor. Applicant has provided items (1),(3), and (4) under 37 CFR 1.47(a).

A review of the papers filed 30 November 2006 reveals that petitioner has paid the requisite petition fee, provided sufficient proof that the non-signing inventor (Philippe Saint-Pere) refused to sign, stated the last known address of the non-signing inventor (Philippe Saint-Pere), and provided an acceptable declaration. Accordingly, all of the requirements of items (1), (2), (3), and (4) above have been satisfied.

Accordingly, the petition to revive under 37 CFR 1.137(b) is granted and it is appropriate to accord the national stage application status under 37 CFR 1.47(a).

CONCLUSION

The petition under 37 CFR 1.137(b) is **GRANTED**.

The renewed petition under 37 CFR 1.47(a) is **GRANTED**.

The application will be given an international filing date of 26 September 2001 under 35 U.S.C. 363, and a date of 30 November 2006 under 35 U.S.C. 371(c).

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the nonsigning inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision.

Anthony Smith

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
Fax: (571) 273-0459

15 DEC 2006

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

Philippe Saint-Pere
1, Lie Dit Cablan
33280
Castelnau De Medoc
FRANCE

In re Application of
HOCQUET et al.
U.S. Application No. 10/381,452
PCT No.: PCT/IB01/01758
Int. Filing Date: 26 September 2001
Priority Date: 28 September 2000
Attorney Docket No.: 14.0176-PCT-US
For: DEFLECTOR DEVICES

Dear Philippe Saint-Pere:

You are named as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Anthony Smith

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3298
Facsimile: (571) 273-0459

Counsel of Record:
WesternGeco, LLC
Intellectual Property Department
10001 Richmond Avenue
Houston, Texas 77042

11 MAY 2004

#5

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

David S. Figatner
WesternGeco, LLC
Intellectual Property Department
P.O. Box 2469
Houston, Texas 77252-2469

In re Application of	:	
HOCQUET et al.	:	
U.S. Application No. 10/381,452	:	DECISION ON PETITION
PCT No.: PCT/IB01/01758	:	
Int. Filing Date: 26 September 2001	:	
Priority Date: 28 September 2000	:	
Attorney Docket No.: 14.0176-PCT-US	:	
For: DEFLECTOR DEVICES	:	

This is a decision on applicants' "Petition under 37 CFR 1.47(a)" filed 25 September 2003 to accept the application without the signature of joint-inventor, Philipe Saint-Pere.

BACKGROUND

On 26 September 2001, applicants filed international application PCT/IB01/01758 which claimed a priority date of 28 September 2000. A Demand was filed with the International Preliminary Examining Authority prior to the 19th month from the earliest claimed priority date. Accordingly, the thirty-month time period for submitting the requisite basic national fee in the United States of America was extended to expire 30 months from the priority date, i.e., 28 March 2003

On 25 March 2003, applicants filed a transmittal letter for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c))(1) and a copy of the international application.

On 26 August 2003, the United Stated Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

On 25 September 2003, applicants filed the present petition under 37 CFR 1.47(a).

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17, (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the

missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and behalf of the nonsigning joint inventor. Items (1) and (3) have been satisfied.

As to item (2), section 409.03(d) of the Manual of Patent Examining Procedure (M.P.E.P.), **Proof of Unavailability or Refusal**, states, in part:

> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Proof that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient. When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal.
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition.

A review of the present petition reveals that petitioner has not satisfied item (2) above, in that the applicant has not shown that a bona fide attempt was made to present the application papers to Philipe Saint-Pere. Petitioner has provided a copy of the cover letter addressed to Mr. Saint-Pere mailed March 14, 2003. However, it is unclear as to the delivery status of the letter. Was the letter(s) returned as undeliverable? Was the letter(s) received by Mr. Saint-Pere or by someone at the last known address? Were any other attempts made to locate Mr. Saint-Pere? The single mailing of the papers to the non-signing inventor's last known address does not constitute a "diligent" effort to locate the inventor. Applicant must show that alternative means were employed, such as a search of telephone and/or Internet directories, in an attempt to locate Mr. Saint-Pere. Lastly, it is unclear whether the petitioner is asserting that the nonsigning inventor has refused to execute the application or cannot be located to execute the application.

As stated above, where a refusal of the inventor to sign the application papers is alleged, a statement of facts is needed from a person having first hand knowledge of the facts that a complete copy of the application papers (specification, claims, and drawings) were sent to Philipe Saint-Pere, and when such papers were sent. In addition, copies of documentary evidence such as a certified mail return receipt, cover letter of instruction, telegrams, etc., should be supplied with the declaration.

As to Item (4), a review of the declaration filed on 25 September 2003 reveals that declaration is not in an acceptable form. Specifically, there is an issue as to whether the declaration has been properly executed. The declaration filed with the petition includes a duplicate sheet of page 3 of 3. It is unclear if the inventors were presented with only page 3, in which case the execution would be improper, or if they were presented with a complete declaration for signing, but counsel subsequently compiled the declaration into the single document filed 25 September 2003, which is improper. (See MPEP 201.03(B) on how to correct this matter.)

For the reasons stated above, it would not be appropriate to accept the application without the signature of Philipe Saint-Pere under 37 CFR 1.47(a) at this time.

CONCLUSION

The petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTH** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required.

Any further correspondence with respect to this matter should be addressed to: Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Anthony Smith

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel.: 703-308-6314
Facsimile: 703-308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

L Mark Ye
WesternGeco
10001 Richmond Avenue
Houston TX 77042

COPY MAILED
SEP 15 2008
OFFICE OF PETITIONS

In re Application of
Kristiansen et al.
Application No. 10/381, 452
Filed: June 28, 2005
Attorney Docket No. 14.0176-PCT-US

DECISION ON PETITION

This is a decision on the petition, filed under 37 CFR 1.137(a) on August 4, 2008, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition under 37 CFR 1.137(a) is **DISMISSED AS MOOT**.

The petition under 37 CFR 1.181 is **GRANTED**.

This application was held abandoned for failure to reply to the non final Office action mailed January 16, 2008, which set a three (3) month shortened statutory period for reply. This decision precedes the mailing of a Notice of Abandonment.

Petitioner asserts that the Office action dated January 16, 2008 was not received.

A review of the written record indicates an irregularity in the mailing of the Office action of January 16, 2008. In this regard, the Office received a change of address on May 11, 2005 prior to the mailing of the Office action of January 16, 2008.[1] Office records were not updated properly to reflect this new change of address. Accordingly, as the Office action was mailed to an incorrect address, the holding of abandonment withdrawn.

This application is being referred to the Technology Center technical support staff of Art Unit 3617 for remailing the Office action of January 16, 2008 and resetting the period for reply.[2]

---

[1] It is noted that the request to change the correspondence address was accompanied with a power of attorney and a 3.73(b) statement. The request to change the correspondence address was also submitted prior to the original mailing of the non-final Office action mailed February 14, 2007 and returned on March 20, 2007.

[2] Petitioner has submitted what purports to be a reply to the Office action within the petition. However, any reply to the non-final Office action must meet the requirements of 37 CFR 1.121 and 1.4(c).

In light of the grant of the petition under 37 CFR 1.181, the $510.00 petition fee will be refunded to the credit card.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3215.

Charlema grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Swidler Berlin Shereff Friedman
Suite 300
3000 K Street
Washington DC 20007

COPY MAILED

APR 0 2 2007

OFFICE OF PETITIONS

In re Application of	:	
FORSBERG	:	
Application No.: 10/381,479	:	DECISION ON PETITION
Filing Date: March 26, 2003	:	
Attorney Docket No.: 19378.0058	:	

This is a decision on the petition filed January 24, 2007, which has been treated as a petition under 37 CFR 1.181.

The petition is **DISMISSED** as **MOOT**.

The petition requests that the copies of a reply submitted with the petition be accepted as having been originally received in the USPTO on December 26, 2006. A date-stamped postcard receipt is provided as evidence. However, the papers originally filed December 26, 2006 have been placed in the application file. Thus, the petition is MOOT.

(The non-final Office action mailed June 23, 2006 set a shortened statutory period for reply of three (3) months. Extensions of time under 37 CFR 1.136(a) were available so long as the reply was not be filed after six (6) months from the mailing date. On December 26, 2006, applicants filed a petition/fee for a three (3) month extension of time and an amendment to the claims. Because December 23, 2006 was a Saturday and December 25, 2006 was a federal holiday, the period for reply ended on December 26, 2006. Thus, applicant's reply was timely filed.)

The Notice of Abandonment mailed January 10, 2007 is hereby VACATED.

This application is being referred to Technology Center AU 2613 for appropriate action, if any, on the reply in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3301.

Daniel Stemmer
Legal Examiner
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

MILLEN, WHITE, ZELANO & BRANIGAN, P.C.
2200 CLARENDON BLVD.
SUITE 1400
ARLINGTON, VA 22201

Mail Date: 04/20/2010

Applicant	: Tsutomu Sada	: DECISION ON REQUEST FOR
Patent Number	: 7629079	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/381,517	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/15/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1139** 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

#3

13 MAY 2003

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Jonathan Alan Quine
QUINE INTELLECTUAL PROPERTY LAW GROUP
P.O. Box 458
Alameda, CA 94501

In re Application of: TOLSON, Michael U.S. Application No.: 10/381,524 PCT No.: PCT/US01/28150 International Filing Date: 06 September 2001 Priority Date: 06 September 2000 Attorney's Docket No.: 507-000510US For: METHOD AND APPARATUS FOR A DISTRIBUTABLE ENVOY ACCOUNT ACCESS OBJECT	DECISION ON PETITION TO REVIVE ABANDONED APPLICATION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 25 March 2003 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

Applicants have now submitted the small entity basic national fee and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application is granted as to the national stage in the United States of America.

It is noted that the 25 March 2003 submission included an executed declaration. Based on the authorization contained in applicant's transmittal letter, Deposit Account No. 50-0893 will be charged the $65 small entity surcharge for filing the declaration later than thirty months after the priority date. However, the one page of declaration in the file indicates that it is page "1 of 2." Page 2 of the declaration is not present in the application file. Because the submitted declaration is apparently incomplete, it cannot be accepted in its present form.

Applicant has **TWO (2) MONTHS** from the mail date of this decision to submit a complete oath or declaration in compliance with 37 CFR 1.497. Extensions of time are available under 37 CFR 1.136(a). Failure to file a timely response will result in abandonment of the application.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
Telephone: (703) 308-6155
Facsimile: (703) 308-6459

23 JUL 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. Box 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Jonathan Alan Quine
QUINE INTELLECTUAL PROPERTY LAW GROUP
P.O. Box 458
Alameda, CA 94501

In re Application of:	:	
TOLSON, Michael	:	DECISION REGARDING
U.S. Application No.: 10/381,524	:	SECOND SUBMISSION OF
PCT No.: PCT/US01/28150	:	DECLARATION
International Filing Date: 06 September 2001	:	
Priority Date: 06 September 2000	:	
Attorney's Docket No.: 507-000510US	:	
For: METHOD AND APPARATUS FOR A	:	
DISTRIBUTABLE ENVOY ACCOUNT	:	
ACCESS OBJECT	:	

In a decision mailed by this Office on 13 May 2003, applicant's petition for revival was granted. However, the decision noted that the filed declaration could not be accepted because it appeared to be incomplete. Specifically, the filed declaration consisted of only one page, but it indicated that it was page "1 of 2."

On 09 July 2003, applicant filed a response to the 13 May 2003 decision. Accompanying this submission was a one page declaration. A review of this declaration reveals that it is identical to the previously filed declaration (including the signature and date thereof), with the sole exception being that the bottom of the page now indicates that it is page "1 of 1." MPEP section 602.01 states:

> The wording of an oath or declaration cannot be amended, altered, or changed in any manner after it has been signed. If the wording is not correct or if all of the required affirmations have not been made, or if it has not been properly subscribed to, a new oath or declaration must be required.

Here, applicant has filed two copies of what appear to be photocopies of the same executed declaration. However, an improper post-execution modification has apparently been made to one of the filed copies of the declaration in that one copy states that it is page "1 of 2" and the other states that it is page "1 of 1." Without further explanation, it cannot be concluded which version of the declaration was executed by the applicant. If applicant executed the originally filed version of the declaration ("1 of 2"), then, as noted in the previous decision, the declaration is unacceptable as incomplete and a new declaration is required. If, in the alternative, the declaration attached to the present submission ("1 of 1") was the version executed by applicant, then further explanation is required as to the post-execution modification seen in the originally filed declaration.

Based on the above, further clarification is required before the new version of the declaration filed by applicant on 09 July 2003 can be accepted.

Applicant has **ONE (1) MONTH** from the mail date of this decision to submit a complete oath or declaration in compliance with 37 CFR 1.497 or further clarification (as discussed above) which would permit acceptance of the declaration filed 09 July 2003. Extensions of time are available under 37 CFR 1.136(a). Failure to file a timely response will result in abandonment of the application.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
Telephone: (703) 308-6155
Facsimile: (703) 308-6459

20 JAN 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

Jonathan Alan Quine
QUINE INTELLECTUAL PROPERTY LAW GROUP
P.O. Box 458
Alameda, CA 94501

In re Application of:	
TOLSON, Michael	DECISION ON THIRD SUBMISSION
U.S. Application No.: 10/381,524	OF DECLARATION AND PETITION
PCT No.: PCT/US01/28150	UNDER 37 CFR 1.181 PETITION
International Filing Date: 06 September 2001	
Priority Date: 06 September 2000	
Attorney's Docket No.: 507-000510US	
For: METHOD AND APPARATUS FOR A DISTRIBUTABLE ENVOY ACCOUNT ACCESS OBJECT	

In a decision mailed on 23 July 2003, it was held, for reasons stated therein, that the declaration filed by applicant 09 July 2003 was unacceptable.

On 14 January 2004, applicants filed by facsimile the submission considered herein. The submission includes a copy of materials which applicant claims to have filed on 25 August 2003 in response to the 23 July 2003 decision. The present submission also includes a copy of a return postcard that itemizes the materials and bears a USPTO receipt stamp dated 25 August 2003. Pursuant to 37 CFR 1.181, and based on applicant's statements and the stamped return postcard, the correspondence and declaration accompanying the present submission are treated as having been filed on 25 August 2003 as a timely response to the 23 July 2003 decision (23 August 2003 was a Saturday).

The 25 August 2003 filing includes a new, one-page declaration executed by the inventor that complies with 37 CFR 1.497. The submission also includes an explanation from counsel regarding the earlier defective declarations.

Based on the above, applicant has now satisfied the requirements of 35 U.S.C. 371. This application is being forwarded to the National Stage Processing Branch of the Office Of PCT Operations for further processing in accord with this decision. The 35 U.S.C. 371 date is 25 August 2003.

Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
Telephone: (703) 308-6155
Facsimile: (703) 308-6459

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

NOV - 9 2005

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

In re application of
Michael Tolson
Application No. 10/381,524
Filed: August 25, 2003
For: METHOD AND APPARATUS FOR A PORTABLE INFORMATION ACCOUNT ACCESS AGENT

: DECISION ON REQUEST
: FOR WITHDRAWAL OF
: ATTORNEY

This is a decision on the request filed on August 01, 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 because the request does not comply with Item A). Because the USPTO does not recognize law firms, the request made upon behalf of the attorneys of a particular firm is insufficient. The attorney should be signing on behalf of all the attorneys of record in this application. Furthermore the request to withdraw as attorney in the above-identified application is not approved as moot because the attorney making the request; Ted M. Cannon, does not now have, and apparently never has had, power of attorney in this application, nor has anyone been appointed on the record.

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(571) 272-6587

KJD/slb: 11/03/05

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

FEB - 1 2006

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

In re application of
Michael Tolson
Application No. 10/381,524
Filed: August 25, 2003
For: METHOD AND APPARATUS FOR A PORTABLE INFORMATION ACCOUNT ACCESS AGENT

: DECISION ON REQUEST
: FOR WITHDRAWAL OF
: ATTORNEY

This is a decision on the renewed request filed on December 09, 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 because the request does not comply with Item A). Because the USPTO does not recognize law firms, the request made upon behalf of the attorneys of a particular firm is insufficient. The attorney should be signing on behalf of all the attorneys of record in this application. Furthermore the request to withdraw as attorney in the above-identified application is not approved as moot because the attorney making the request; Ted M. Cannon, does not now have, and apparently never has had, power of attorney in this application, nor has anyone been appointed on the record.

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(571) 272-6587

KJD/slb: 01/18/06

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

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

Mail Date: 04/20/2010

Applicant	: Keith Johnston	: DECISION ON REQUEST FOR
Patent Number	: 7604825	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/381,532	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/06/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **548** 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.

10 JUN 2003

#3

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

Ronald W. Burns
Gardere Wynn Sewell LLP
1601 Elm Street, Suite 3000
Dallas, Texas 72501-4761

In re Application of	:	
NASSTROM et al.	:	
Application No.: 10/381,552	:	
PCT No.: PCT/SE01/00878	:	DECISION ON PETITION
Int. Filing Date: 25 April 2001	:	UNDER 37 CFR 1.137(b)
Priority Date: 19 May 2000	:	
Attorney Docket No.: 064645-1017	:	
For: CONTACT SPRING ASSEMBLY		

The petition to revive under 37 CFR 1.137(b) filed 25 March 2003 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has submitted the basic national fee of $1060 and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office (US/DO/EO) for continued processing including the issuance of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration along with the $130 surcharge for filing the oath or declaration after the thirty-month period is required.

Anthony Smith

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Telephone: (703) 308-6314
Facsimile: (703) 308-6459

23 OCT 2003

#8

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Gardere Wynn Sewell LLP
IP Section
1601 Elm Street
Dallas, Texas 72501

In re Application of	:	
NASSTROM et al.	:	
Application No.: 10/381,552	:	DECISION ON
PCT No.: PCT/SE01/00878	:	PAPERS UNDER 37 CFR 1.42
Int. Filing Date: 25 April 2001	:	
Priority Date: 19 May 2000	:	
Attorney Docket No.: 064645-1017	:	
For: CONTACT SPRING ASSEMBLY	:	

This is a response to the declaration filed 15 September 2003 which is being treated as a request under 37 CFR 1.42. No petition fee is required.

BACKGROUND

On 25 April 2001, applicants filed international application PCT/SE01/00878 which claimed a priority date of 19 May 2000. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 29 November 2001. A Demand was filed with the International Preliminary Examining Authority electing the United States. As a result, the deadline for payment of the basic national fee was to expire 30 months from the priority date, 19 November 2002.

On 25 March 2003, applicants filed a transmittal letter for entry into the national stage in the United States accompanied, inter alia, by: the basic national fee; a copy of the international application; and a petition to revive under 37 CFR 1.137(b). In a decision dated 10 June 2003, applicants' petition to revive under 37 CFR 1.137(b) was granted.

On 24 June 2003, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring an oath or declaration in compliance with 37 CFR 1.497 and the surcharge fee required under 37 CFR 1.492(e). The notification set a two-month time limit in which to respond.

On 29 January 2003, applicants filed an executed declaration/power of attorney. The declaration is executed by: Tommy Nasstrom; Stig Arvidsson; and Rutger Bladh and as inventors and Annette Malmros on behalf of deceased inventor, Fini Lennart Malmros.

DISCUSSION

37 CFR 1.42 *When the Inventor is Dead,* states, in part:

> In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent.

The declaration filed 15 September 2003 is executed by: Tommy Nasstrom; Stig Arvidsson; and Rutger Bladh as inventors; and Annette Malmros as the "executor" of the deceased inventor, Fini Lennart Malmros. The declaration submitted on 15 September 2003 appears to have been executed by the proper party under 37 CFR 1.42, however, the declaration is not in an acceptable form. Specifically, there is an issue as to whether the declaration has been properly executed. The declaration filed with petition includes duplicate sheets of page 2 and 3. It is unclear if the inventors were presented with only pages 2 and 3, in which case the execution would be improper, or if they were presented with a complete declaration for signing, but counsel subsequently compiled the declaration into the single document, which is improper. (See MPEP 201.03(B) on how to correct this matter.)

Additionally, the declaration is executed by Tommy Nasstrom, whereas the international application lists the inventor as Kaj Tommy Nasstrom. Clarification is required.(See MPEP 201.03, Page 200-4 and MPEP 605.04).

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **REFUSED**.

Applicant is required to provide an oath/declaration in compliance with 37 CFR 1.497(a)-(b) within **TWO (2) MONTHS** from the mail date of this Decision. Failure to respond will result in the abandonment of the application. Any reconsideration request should include a cover letter entitled "Renewed Submission Under 37 CFR 1.42" and must include an acceptable declaration under 37 CFR 1.497 which has been executed by the either the legal representative of the deceased inventor or, if no legal representative has been appointed, all of the heirs of the deceased inventor.

Any further correspondence with respect to this matter should be addressed to: Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Anthony Smith
Attorney Advisor
Office of PCT Legal Administration
Tel: (703) 308-6314
Fax: (703) 308-6459

17 DEC 2003

#10

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

Gardere Wynn Sewell LLP
IP Section
1601 Elm Street
Dallas, Texas 72501

In re Application of	:	
NASSTROM et al.	:	
Application No.: 10/381,552	:	DECISION ON
PCT No.: PCT/SE01/00878	:	PAPERS UNDER 37 CFR 1.42
Int. Filing Date: 25 April 2001	:	
Priority Date: 19 May 2000	:	
Attorney Docket No.: 064645-1017	:	
For: CONTACT SPRING ASSEMBLY	:	

This is a response to the "Renewed Submission under 37 CFR 1.42" and "Petition for Inventor Name Change under 37 CFR 1.182" filed 08 December 2003.

BACKGROUND

On 25 April 2001, applicants filed international application PCT/SE01/00878 which claimed a priority date of 19 May 2000. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 29 November 2001. A Demand was filed with the International Preliminary Examining Authority electing the United States. As a result, the deadline for payment of the basic national fee was to expire 30 months from the priority date, 19 November 2002.

On 25 March 2003, applicants filed a transmittal letter for entry into the national stage in the United States accompanied, inter alia, by: the basic national fee; a copy of the international application; and a petition to revive under 37 CFR 1.137(b). In a decision dated 10 June 2003, applicants' petition to revive under 37 CFR 1.137(b) was granted.

On 24 June 2003, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring an oath or declaration in compliance with 37 CFR 1.497 and the surcharge fee required under 37 CFR 1.492(e). The notification set a two-month time limit in which to respond.

On 15 September 2003, applicants filed an executed declaration/power of attorney. The declaration is executed by: Tommy Nasstrom; Stig Arvidsson; and Rutger Bladh and as inventors and Annette Malmros on behalf of deceased inventor, Fini Lennart Malmros. In a decision dated 23 October 2003, applicants' request filed 15 September 2003 was dismissed because the declaration was not in an acceptable form.

On 08 December 2003, applicants filed "Renewed Submission under 37 CFR 1.42" and "Petition for Inventor Name Change under 37 CFR 1.182."

DISCUSSION

A. Renewed Submission under 37 CFR 1.42

37 CFR 1.42 *When the Inventor is Dead*, states, in part:

> In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent.

The declaration filed 08 December 2003 is executed by: Kaj Tommy Nasstrom; Stig Arvidsson; and Rutger Bladh as inventors; and Annette Malmros as the "executor" of the deceased inventor, Fini Lennart Malmros. The declaration is acceptable under 37 CFR 1.42 and complies with 37 CFR 1.497(a)-(b). Accordingly, the requirements for entry into national stage under 35 U.S.C. 371(c) were completed as of 08 December 2003.

B. Petition for Inventor Name Change under 37 CFR 1.182

As indicated in Section 201.03 of the Manual of Patent Examining Procedure, where a typographical or transliteration error in the spelling of an inventor's name is discovered, a petition under 37 CFR 1.48(a) is not required. Accordingly, applicants' explanation of the difference in the spelling of the first named inventor's name is accepted and noted for the record. The petition under 37 CFR 1.182 is granted and the declaration submitted on 08 December 2003 is accepted. The petition fee has been charged to Deposit Account no. 50-1379.

CONCLUSION

The papers filed under 37 CFR 1.42 are **ACCEPTED**.

The petition under 37 CFR 1.182 is **GRANTED**.

This application is being forwarded to United States/Elected Office the for further processing with the name of the first inventor as KAJ TOMMY NASSTROM. The application has an international filing date of 25 April 2001, under 35 U.S.C. 363, and a 35 U.S.C. 371(c) date of **08 December 2003**.

Anthony Smith

Anthony Smith
Attorney Advisor
Office of PCT Legal Administration
Tel: (703) 308-6314
Fax: (703) 308-6459

02 MAR 2004

#11

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Gardere Wynn Sewell LLP
IP Section
1601 Elm Street
Dallas, Texas 72501

In re Application of	:	
NASSTROM et al.	:	
Application No.: 10/381,552	:	
PCT No.: PCT/SE01/00878	:	NOTIFICATION
Int. Filing Date: 25 April 2001	:	
Priority Date: 19 May 2000	:	
Attorney Docket No.: 064645-1017	:	
For: CONTACT SPRING ASSEMBLY	:	

The above-captioned application is before the Office of PCT Legal Administration for consideration of issues arising under 35 U.S.C. 371.

BACKGROUND

On 25 April 2001, applicants filed international application PCT/SE01/00878 which claimed a priority date of 19 May 2000. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 29 November 2001. The international application named Kaj Tommy Nasstrom; Stig Arvidsson; Carl Rutger Bladh and Fini Lennart Malmros as inventors. A Demand was filed with the International Preliminary Examining Authority electing the United States. As a result, the deadline for payment of the basic national fee was to expire 30 months from the priority date, 19 November 2002.

On 25 March 2003, applicants filed a transmittal letter for entry into the national stage in the United States accompanied, inter alia, by: the basic national fee; a copy of the international application; and a petition to revive under 37 CFR 1.137(b). In a decision dated 10 June 2003, applicants' petition to revive under 37 CFR 1.137(b) was granted.

On 24 June 2003, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring an oath or declaration in compliance with 37 CFR 1.497 and the surcharge fee required under 37 CFR 1.492(e). The notification set a two-month time limit in which to respond.

On 15 September 2003, applicants filed an executed declaration/power of attorney. The declaration is executed by: Tommy Nasstrom; Stig Arvidsson; and Rutger Bladh and as inventors and Annette Malmros on behalf of deceased inventor, Fini Lennart Malmros. In a decision dated 23 October 2003, applicants' request filed 15 September 2003 was dismissed because the declaration was not in an acceptable form.

On 08 December 2003, applicants filed "Renewed Submission under 37 CFR 1.42" and "Petition for Inventor Name Change under 37 CFR 1.182." The petitions were granted

in a Decision dated 17 December 2003.

NOTIFICATION

A review of the application file and other Patent and Trademark Office records reveals that the requirements of 35 U.S.C. 371(c) for entry into the national stage in the United States of America have not been completed as indicated in the "Decision on Papers under 37 CFR 1.42" mailed by the Office of PCT Legal Administration on 17 December 2003. Specifically, the declaration filed 08 December 2003 is executed by Rutger Bladh, whereas the international application lists the inventor as Carl Rutger Bladh.[1] In that this is clearly more than a mere typographical error or a phonetic misspelling of applicant's given name a proper petition under 37 CFR 1.182 is required in order to resolve the matter. Such a petition must be accompanied by the requisite petition fee of $130 as well as verified statements from the inventor and any other persons having firsthand knowledge of the error. These statements must set forth the specific circumstances as to how and when the error was made and discovered, and must also set forth that the mistake was an inadvertent error without deceptive intent. (See MPEP 201.03, Page 200-4 and MPEP 605.04). If applicant's name is listed correctly on the international application, a newly executed declaration is required and a statement from the inventor must be included which set forth the specific circumstances as to how and when the error was made and discovered, and must also set forth that the mistake was an inadvertent error without deceptive intent.

CONCLUSION

A proper response must be filed within **TWO (2) MONTHS** from the mail date of this notification. Any reconsideration request should include a cover letter entitled "Petition Under 37 CFR 1.182," and must include an acceptable explanation of the facts as discussed above. Extensions of time may be obtained under 37 CFR 1.136(a). Failure to file a proper response in a timely manner will result in ABANDONMENT of the application.

Any further correspondence with respect to this matter should be addressed to: Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Anthony Smith
Attorney Advisor
Office of PCT Legal Administration
Tel: (703) 308-6314
Fax: (703) 308-6459

---

[1]The Declaration of Inventorship included with the PCT Request (PCT/RO/101) was executed by Carl Rutger Bladh.

02 MAY 2006

#16

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Steven W. Smith
Ericsson Inc.
6300 Legacy Drive
M/S/ EVR c11
Plano, Texas 75024

In re Application of NASSTROM et al. Application No.: 10/381,552 PCT No.: PCT/SE01/00878 Int. Filing Date: 25 April 2001 Priority Date: 19 May 2000 Attorney Docket No.: 064645-1017 For: CONTACT SPRING ASSEMBLY	:	DECISION ON PETITION UNDER 37 CFR 1.181

This decision is issued in response to applicants' "Petition to Withdraw Holding of Abandonment under 37 CFR 1.181 and 1.8(b)" filed 03 March 2006.

BACKGROUND

On 25 April 2001, applicants filed international application PCT/SE01/00878 which claimed a priority date of 19 May 2000. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 29 November 2001. A Demand was filed with the International Preliminary Examining Authority electing the United States. As a result, the deadline for payment of the basic national fee was to expire 30 months from the priority date, 19 November 2002.

On 25 March 2003, applicants filed a transmittal letter for entry into the national stage in the United States accompanied, inter alia, by: the basic national fee; a copy of the international application; and a petition to revive under 37 CFR 1.137(b). In a decision dated 10 June 2003, applicants' petition to revive under 37 CFR 1.137(b) was granted.

On 24 June 2003, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring an oath or declaration in compliance with 37 CFR 1.497 and the surcharge fee required under 37 CFR 1.492(e). The notification set a two-month time limit in which to respond.

On 15 September 2003, applicants filed an executed declaration/power of attorney. The declaration wass executed by: Tommy Nasstrom; Stig Arvidsson; and Rutger Bladh and as inventors and Annette Malmros on behalf of deceased inventor, Fini Lennart Malmros. In a decision dated 23 October 2003, applicants' request filed 15 September 2003 was dismissed because the declaration was not in an acceptable form.

On 08 December 2003, applicants filed "Renewed Submission under 37 CFR 1.42" and "Petition for Inventor Name Change under 37 CFR 1.182." On 17 December 2003, applicants' petitions under 37 CFR 1.42 and 1.182 were granted.

On 02 March 2004, the Office of PCT Legal Administration mailed a "Notification" indicating that the declaration previously filed was not in compliance with 37 CFR 1.497(a)-(b). Specifically, the declaration filed 08 December 2003 was executed by Rutger Bladh, whereas the international application lists the inventor as Carl Rutger Bladh. The Notification was mailed to the attorney of record listed on the 25 March 2003 Transmittal Letter. A copy of the "Notification" has been attached for your convenience.

On 22 December 2005, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Abandonment (Form PCT/DO/EO/909) indicating that the application was abandoned for failure to file a complete response to the Notification of Missing Requirements mailed 24 June 2003 within the time period set therein. (The Notification of Abandonment should have indicated that the application was abandoned for failure to file a complete response to the Notification (from the Office PCT Legal Administration) mailed 02 March 2004 within the time period set therein.

On 03 March 2006, applicants filed "Petition to Withdraw Holding of Abandonment under 37 CFR 1.181 and 1.8(b)."

DISCUSSION

Applicants state in the present petition that, "the application was abandoned by the USPTO for applicants' alleged failure to respond to the Notification of Missing Requirements dated June 24, 2003. The Applicant contend that a response was timely filed." Applicants' assertion is correct, however, the Office of PCT Legal Administration mailed a "Notification" indicating that the declaration previously submitted was not in compliance with 37 CFR 1.497(a)-(b). Therefore, the above-identified application was abandoned for failure to file a complete response to the Notification (from the Office PCT Legal Administration) mailed 02 March 2004 within the time period set therein.

Defective Declaration

As stated in the Notification, the declaration filed 08 December 2003 was executed by Rutger Bladh, whereas the international application lists the inventor as Carl Rutger Bladh.[1] In that this is clearly more than a mere typographical error or a phonetic misspelling of applicant's given name a proper petition under 37 CFR 1.182 is required in order to resolve the matter. Such a petition must be accompanied by the requisite petition fee of $400 as well as verified statements from the inventor and any other persons having

[1]The Declaration of Inventorship included with the PCT Request (PCT/RO/101) was executed by Carl Rutger Bladh.

firsthand knowledge of the error. These statements must set forth the specific circumstances as to how and when the error was made and discovered, and must also set forth that the mistake was an inadvertent error without deceptive intent. (See MPEP 201.03 and MPEP 605.04). If applicant's name is listed correctly on the international application, a newly executed declaration is required and a statement from the inventor must be included which set forth the specific circumstances as to how and when the error was made and discovered, and must also set forth that the mistake was an inadvertent error without deceptive intent.

Applicants may wish to file a Renewed Petition under 37 CFR 1.181 (Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action) or a Petition under 37 CFR 1.137(a) or (b) requesting that the application be revived. The recommendation to file a petition under 37 CFR 1.181 or 1.137 should not be construed as an indication as to whether or not any such petition(s) will be favorably considered.

CONCLUSION

The petition under 37 CFR 1.181 to withdraw the holding of abandonment is **DISMISSED** without prejudice.

A proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181," and must include an acceptable explanation of the facts as discussed above. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to: Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3298
Facsimile: (571) 273-0459

Enclosure: Notification (from the Office of PCT Legal Administration) dated 02 March 2004

09 AUG 2006

#18

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Steven W. Smith
Ericsson Inc.
6300 Legacy Drive
M/S/ EVR c11
Plano, Texas 75024

In re Application of NASSTROM et al. Application No.: 10/381,552 PCT No.: PCT/SE01/00878 Int. Filing Date: 25 April 2001 Priority Date: 19 May 2000 Attorney Docket No.: 064645-1017 For: CONTACT SPRING ASSEMBLY	: : : : : : : :	DECISION ON PETITION UNDER 37 CFR 1.181 & 37 CFR 1.182

This decision is issued in response to applicants' "Renewed Petition to Withdraw Holding of Abandonment under 37 CFR 1.181 and 1.8(b)" filed 30 June 2006 and "Supplemental Renewed Petition to Withdraw Holding of Abandonment under 37 CFR 1.181 and 1.8(b)" filed 02 August 2006. Additionally, this decision is issued in response to applicants' "Petition for Inventor Name Change under 37 CFR 1.182" filed 30 June 2006.

The procedural background for this application is set forth in the "Decision on Petition under 37 CFR 1.181" mailed 02 May 2006.

DISCUSSION

A. Renewed Petition under 37 CFR 1.181

The above-identified application was abandoned for failure to file a complete response to the Notification (from the Office PCT Legal Administration) mailed 02 March 2004 within the time period set therein. Applicant states that Notification mailed 02 March 2004 was not received. With regards to applicant's request that the holding of abandonment be withdrawn, a proper showing in order to establish that papers were not received as set forth in the Official Gazette at 1156 OG 53 must include the following: (1) a statement by the practitioner that the Office action was not received by the practitioner; (2) a statement by the practitioner attesting that a search of the file jacket and docket records indicates that the Office action was not received; and (3) a copy of the docket record where the non-received Office action would have been entered had it been received (the docket record must also be referenced in practitioner's statement).

Applicants have satisfied items (1), (2), and (3) above.

B. Petition to Change Name under 37 CFR 1.182

The Manual of Patent Examining Procedure at § 605.04(c) requires in instances where an inventor has changed his or her name after the application has been filed to submit a petition under 37 CFR 1.182. The petition must include the appropriate petition fee and an affidavit signed with both names setting forth the procedure whereby the change of name was effected, or certified copy of the court order. The $400 petition fee will be charged to counsel's Deposit Account No. 50-1379.

The petition under 37 CFR 1.182 has been reviewed and is approved.

The declaration submitted on 30 June 2006 executed (and initialed) by Carl Rutger Bladh is accepted.

CONCLUSION

For the reasons above, the petition to withdraw the holding of abandonment under 37 CFR 1.181 is **GRANTED**.

The petition under 37 CFR 1.182 to change the inventor's name from Rutger Bladh to Carl Rutger Bladh is **GRANTED**.

The application has an international filing date of 25 April 2001 under 35 U.S.C. 363 and a date of **30 June 2006** under 35 U.S.C. 371(c).

This application is being forwarded to the National Stage Processing Branch of the International Division for continued national stage processing.

Anthony Smith

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3298
Facsimile: (571) 273-0459

19 AUG 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

#6

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Eric D. Cohen
WELSH & KATZ, LTD.
120 South Riverside Plaza, 22nd Floor
Chicago. IL 60606

In re Application of
GUELLER, Rolf *et al*
U.S. Application No.: 10/381,555
PCT No.: PCT/CH01/00600
Int. Filing Date: 04 October 2001
Priority Date: 06 October 2000
Attorney Docket No.: 89066
For: DEVICE HAVING A TOOL HOLDER, A TOOL AND A BALANCE

DECISION

This communication is in response to applicants' "Response to Notification of Missing Requirements Under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US)" submitted on 14 July 2003.

On 10 June 2003, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and a $65.00 surcharge fee was required because the fifth co-inventor did not sign the declaration.

In the instant response, applicants claim that the signature of the fifth named co-inventor, Christoph Bachmann, has not yet been obtained. Nonetheless, applicants contend that the German language version of the PCT Declaration of Inventorship only for the purposes of designation of the United States (PCT Rules 4.17(iv) and 51bis.1(a)(iv)) filed with PCT/CH01/006000, on 04 October 2001 satisfies all USPTO requirements. A review of this declaration filed with the instant response verifies that that all seven co-inventors executed this declaration. This declaration is in compliance with 37 CFR 1.497(a) and (b). The $65.00 surcharge fee has been paid.

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 04 October 2001, under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 14 July 2003.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

James Thomson

James Thomson
Attorney Advisor
PCT Legal Office

Tel.: (703) 308-6457

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)
6,884,177	2005-04-26	10/381,565	2003-05-20	13524/129

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	/Clifford A. Ulrich/	Date (YYYY-MM-DD)	2009-06-30
Name	Clifford A. Ulrich	Registration Number	42194

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. 6884177
Issue Date: April 26,2005
Application No. 10381565
Filed: May 20,2003
Attorney Docket No. 13524/129

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed June 30,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of June 30,2009 .
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

ROETZEL AND ANDRESS
222 SOUTH MAIN STREET
AKRON OH 44308

COPY MAILED
JUN 03 2008
OFFICE OF PETITIONS

In re Application of :
Thomas R. PATACCA et al. :
Application No. 10/381,569 : DECISON ON PETITION
Filed: November 24, 2003 :
Attorney Docket No. **109401.0001** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 10, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, May 16, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on August 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) in that there is no statement about the delay being unintentional. The petitioner is urged to consider using the form PTO/SB/64 available at www.uspto.gov.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at (571) 272-2783.

Ramesh Krishnamurthy

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

ROETZEL AND ANDRESS
222 SOUTH MAIN STREET
AKRON OH 44308

COPY MAILED
SEP 16 2008

In re Application of	:	
Thomas R. PATACCA et al.	:	
Application No. 10/381,569	:	DECISION ON PETITION
Filed: November 24, 2003	:	
Attorney Docket No. **109401.0001**	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed July 21, 2008 and re-submitted on August 08, 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, May 16, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on August 17, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $770, and (3) a proper statement of unintentional delay. Accordingly, the reply to the non-final Office action of May 16, 2007 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at (571) 272-2783.

This application is being referred to Technology Center AU 1796 for appropriate action on the concurrently filed amendment.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

RECEIVED
CENTRAL FAX CENTER
JUL 2 1 2008

PTO/SB/64 (01-08)
Approved for use through 07/31/2008. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Docket Number (Optional) 109401.0001

First named inventor: PATACCA, Thomas R.

Application No.: 10/381,569 Art Unit: 1796

Filed: November 24, 2003 Examiner: Ramesh Krishnamurthy

Title: TOOTH COATING COMPOSITION

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 Petition to Revive (identify type of reply):

☑ has been filed previously on April 7, 2008.
☐ 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.

CENTRAL FAX CENTER

JUL 2 1 2008

PTO/SB/64 (01-08)
Approved for use through 07/31/2008. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

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	July 21, 2008 Date
George W. Moxon, II Typed or printed name	26615 Registration Number, if applicable
222 South Main Street Address	330-849-6689 Telephone Number
Akron, Ohio 44308 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.

July 21, 2008 Date	Signature
	Lynn Browning Typed or printed name of person signing certificate

PAGE 5/14 * RCVD AT 7/21/2008 4:23:03 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-4/13 * DNIS:2738300 * CSID:3303764577 * DURATION (mm-ss):08-32

10 JUN 2005

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

GLAXOSMITHKLINE
Corporate Intellectual Property
P.O. Box 1539
King Of Prussia PA 19406-0939

In re Application of	:	DECISION ON
GEORGI et al	:	
Application No.: 10/381,571	:	
PCT No.: PCT/EP01/11133	:	PETITION UNDER
Int. Filing Date: 25 September 2001	:	
Priority Date: 27 September 2000	:	
Attorney's Docket No.: C70456	:	
For: TOOTHBRUSH	:	37 CFR 1.137(b)

This decision is in response to applicants' "Petition For Revival Of An International Application For Patent Designating The U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)," filed on 12 May 2005.

BACKGROUND

On 25 September 2001, this international application was filed, claiming an earliest priority date of 27 September 2000. A copy of the international application was transmitted to the United States from the International Bureau on 04 April 2002.

On 25 March 2003, applicants filed the Transmittal letter for entry into the national stage in the United States, which was accompanied by, basic national fee. No executed declaration or oath was filed at such time.

On 13 June 2003, the United States Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that the oath or declaration complying with 37 CFR 1.497(a) and (b), identifying the application by the international application number and international filing date must be furnished within the time period set forth. The notification set a two months time limit or 32 months from the priority date for the application, whichever is later to respond.

On 15 October 2004, the USPTO mailed applicant Notification of Abandonment (Form PCT/DO/EO/909) indicating the application was abandoned because applicant failed to respond to the notification of MISSING REQUIREMENTS (Form PCT/DO/EO/905), mailed 06/13/2003 within the time period set therein.

On 12 May 2005, applicant filed in the United States Patent and Trademark Office (PTO) the instant petition, accompanied by, *inter alia*, an executed declaration and the petition fee for revival of an unintentionally abandoned application.

DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application; (2) the petition fee as set forth in § 1.17(m); and (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

The petition is deemed to satisfy requirements (2), (3), and (4) under 37 CFR 1.137(b) but not requirement (1).

Petitioner has provided: (2) the petition fee set forth in §1.17(m) and (3) the proper statement under 137(b)(3). In this application, no terminal disclaimer is required.

Regarding requirement (1), the petitioner has not provided the proper reply because the submitted declaration is defective because there is an alteration on it - the insertion of the word "we". Any alternation made after the signing of an oath or declaration must be supported by a supplemental oath or declaration under §1.67. Note 37 CFR §1.52(b)(7)(c)(1).

Accordingly, the petition is deemed to not satisfy the requirements under 37 CFR 1.137(b).

DECISION

The petition under 37 CFR 1.137(b) is **DISMISSED** without prejudice.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Telephone: (571) 272-3276
Facsimile: (571) 273-0459

#8

UNITED STATES PATENT and TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

GLAXOSMITHKLINE
Corporate Intellectual Property
P.O. Box 1539
King Of Prussia PA 19406-0939

31 JAN 2006

In re Application of	:	DECISION ON RENEWED
GEORGI et al	:	
Application No.: 10/381,571	:	
PCT No.: PCT/EP01/11133	:	PETITION UNDER
Int. Filing Date: 25 September 2001	:	
Priority Date: 27 September 2000	:	
Attorney's Docket No.: C70456	:	
For: TOOTHBRUSH	:	37 CFR 1.137(b)

This decision is responsive to applicants' "SUPPLEMENTAL PETITION FOR REVIVAL OF AN INTERNATIONL ... UNINTENTIONALLY UNDER 37 CFR 1.137(b)" filed on 14 November 2005 requesting the acceptance of the executed declaration.

BACKGROUND

In a decision from this Office on 10 June 2005, the declaration submitted on 12 May 2005 was not accepted because it appeared altered after having been signed so applicants did not provide the proper reply under 37 CFR 1.137(b) .

On 14 November 2005 applicants submitted a second renewed petition under 37 CFR 1.137(b) and submitted a properly executed declaration.

DISCUSSION

The declaration filed on 14 November 2005 is a properly executed.

DECISION

The renewed petition under 37 CFR 1.137(b) is **GRANTED**.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing. The 35 USC 371(c)(1), (c)(2), and (c)(4) date of this application is **14 November 2005**.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Telephone: (571) 272-3276
Facsimile: (571) 273-0459

17 SEP 2004
UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
ALEXANDRIA, VA 22313-1450
www.uspto.go

WesternGeco
Intellectual Property Department
P.O. Box 2469
Houston, TX 77252-2469

In re Application of:	:	
Hocquet et al.	:	
Application No.: 10/381,576	:	DECISION
PCT No.: PCT/IB01/01759	:	
Int. Filing Date: 26 September 2001	:	UNDER
Priority Date: 28 September 2000	:	
Atty. Docket No.: 14.0177-PCT-US	:	37 CFR 1.47
For: Deflector Devices	:	

This is in response to the petition under 37 CFR 1.47(a) filed on 05 February 2004.

BACKGROUND

This international application was filed on 26 September 2001 and claimed earliest priority of an application filed on 28 September 2000. The International Bureau transmitted a copy of the published international application to the USPTO on 18 April 2002. A Demand electing the United States was filed prior to the elapse of 19 months from the priority date. Accordingly, the 30 month time period for paying the basic national fee in the United States expired at midnight on 26 March 2003. On 25 March 2003, applicants filed *inter alia* the basic national fee.

On 24 June 2003, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring the submission of, *inter alia,* an executed oath or declaration of the inventors.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor. Petitioner has satisfied requirements (1), and (3), but has not satisfied requirements (2) and (4).

Regarding requirement (1), the petition included authorization to charge the petition fee to counsel's Deposit Account, thereby satisfying requirement (1).

Regarding requirement (2), petitioner urges that the absence on the declaration of the

signature of joint inventor Phillipe Saint-Pere be excused because he has not been found or reached after diligent effort. In support of this contention, petitioner provides an "Affidavit of Rebecca Tanis," which states that correspondence including "a copy of the Patent Application, Declaration, Assignment, Power of Attorney, and an instruction letter were mailed to the inventor at his last known address"on 18 July 2003, and that the correspondence was returned after being labeled "unknown person." This is corroborated by a copy of "DHL Shipment Air Waybill 760 2503 543." Ms. Tanis further recounts an unsuccessful attempt to reach Mr. Saint-Pere by e-mail on 28 July 2003. However, counsel does not recount any efforts made to ascertain Mr. Saint-Pere's location after his presence at his last known address was called into doubt. For instance, it is not clear whether counsel made inquiries of other individuals who may have been in contact with Mr. Saint-Pere, whether attempts were made to locate him via a telephone directory search, whether efforts were made to locate him via an Internet search, or the like. Based on the totality of the evidence of record, it would not be appropriate at this time to conclude that requirement (2) has been satisfied.

Regarding requirement (3), the petition includes a statement the last known addresses of Phillipe Saint-Pere. Accordingly, requirement (3) has been satisfied.

Regarding requirement (4), the declaration is not acceptable for purposes of compliance with 35 U.S.C. 371 because it is unclear whether each of the signing inventors signed a complete copy of the declaration. Rather, it appears that the declaration was assembled from single sheets signed by each of the signing inventors. Consequently, it would not be appropriate to accept the declaration filed on 05 February 2004.

CONCLUSION

The petition is **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, Alexandria, VA 22313-1450, and address the contents of the letter to the attention of the PCT Legal Office.

Richard Cole
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (703) 308-6721
Fax: (703) 308-6459

28 SEP 2004
UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
ALEXANDRIA, VA 22313-1450
www.uspto.go

WesternGeco
Intellectual Property Department
P.O. Box 2469
Houston, TX 77252-2469

In re Application of:	:	
Hocquet et al.	:	
Application No.: 10/381,576	:	DECISION
PCT No.: PCT/IB01/01759	:	
Int. Filing Date: 26 September 2001	:	UNDER
Priority Date: 28 September 2000	:	
Atty. Docket No.: 14.0177-PCT-US	:	37 CFR 1.47
For: Deflector Devices	:	

This is in response to the renewed petition under 37 CFR 1.47(a) filed on 23 September 2004.

DISCUSSION

On 17 September 2004, a decision was mailed to counsel, dismissing without prejudice a petition under 37 CFR 1.47(a) filed on 05 February 2004. The petition was dismissed because

> counsel does not recount any efforts made to ascertain Mr. Saint-Pere's location after his presence at his last known address was called into doubt. For instance, it is not clear whether counsel made inquiries of other individuals who may have been in contact with Mr. Saint-Pere, whether attempts were made to locate him via a telephone directory search, whether efforts were made to locate him via an Internet search, or the like.

and because it was unclear whether each of the signing inventors signed a complete copy of the declaration. Counsel has now provided a "Statement of Mark W. Sincell" attesting that a telephone directory search and an Internet search for Mr. Saint-Pere were conducted on 23 September 2004 but both searches were fruitless. Based on Mr. Sincell's statement and the attached documentation, it would now be appropriate to conclude that Mr. Saint-Pere could not be found or reached after diligent effort within the meaning of 37 CFR 1.47(a). Counsel has also provided acceptable declarations executed by joint inventors Hocquet, Kristiansen and Keskes on behalf of themselves and Mr. Saint-Pere. Therefore, it would now be appropriate to grant the requested relief.

CONCLUSION

The petition is **GRANTED**.

The Application Division and the International Division are authorized to accept the application as a 37 CFR 1.47(a) application and to mail a filing receipt. The application will be given an international filing date of 26 November 1999 under 35 U.S.C. 363. The date of this application under 35 U.S.C. 371(c)(1), (2) and (4) is **23 September 2004**.

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the non-signing inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

The $130.00 surcharge under 37 CFR 1.492(e) is being charged to counsel's Deposit Account No. 50-0786/2088.003200, as authorized by the petition.

The application is being returned to the International Division for processing as the U.S. National Stage of the above-identified international application.

Leonard Smith
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (703) 308-6721
After 30 Sep. 2004: (571) 272-3283
Fax: (703) 308-6459
After 30 Sep. 2004: (571) 273-0459

28 SEP 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
www.uspto.go

Philippe Saint-Pere
1, Lieu Dit Cablanc
33480 Castelnau de Medoc
FRANCE

In re Application of
Hocquet et al.
Application No. 10/381,576
PCT No.: PCT/IB01/01759
Int. Filing Date: 26 September 2001
Priority Date: 28 September 2000
For: Deflector Devices

Dear Mr. Saint-Pere:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (703) 308-6721 (or (571) 272-3283 after 30 September 2004). Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Requests for 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).

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Mail Stop PCT, Alexandria, VA 22313-1450, with the contents of the letter marked to the attention of the PCT Legal Office.

Leonard Smith
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (703) 308-6721
After 30 Sep. 2004: (571) 272-3283
Fax: (703) 308-6459
After 30 Sep. 2004: (571) 273-0459

WesternGeco
Intellectual Property Department
P.O. Box 2469
Houston, TX 77252-2469

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
ALEXANDRIA, VA 22313-1450
www.uspto.go

OFFICIAL GAZETTE NOTICE

37 CFR 1.47 Notice by Publication

Notice is hereby given of the filing of an application with a petition under 37 CFR 1.47 requesting acceptance of the application without the signature of all inventors. The petition has been granted. A notice has been sent to the last known address of the non-signing inventor. The inventor whose signature is missing (Philippe Saint-Pere) may join in the application by promptly filing an appropriate oath or declaration complying with 37 CFR 1.63. The international application number is PCT/IB01/01759and was filed on September 26, 2001 in the names of Philippe Hocquet, Ottar Kristiansen, Emmanuel Keskes and Phillipe Saint-Pere for the invention entitled DEFLECTOR DEVICES. The national stage application number is 10/381,576 and has a 35 U.S.C. 371(c)(1), (2) and (4) date of September 23, 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

THOMAS D. FOSTER
12760 HIGH BLUFF DRIVE, SUITE 300
SAN DIEGO, CA 92130

MAILED

MAY 08 2009

OFFICE OF PETITIONS

In re Application of	:	
Giuseppina Cerea	:	DECISION ON PETITION
Application No. 10/381,579	:	TO WITHDRAW
Filed: July 15, 2003	:	FROM RECORD
Attorney Docket No. 7202-115	:	

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 15, 2006.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that on June 19, 2006 the power of attorney to T.D. Foster was revoked by the applicant of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Akerman Senterfitt
P.O. Box 3188
West Palm Beach FL 33402-3188

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 - 4 2003

MAILED

SEP - 4 2003
OFFICE OF THE DIRECTOR
TC 3600

Francois Martineau
Lesperance & Martineau
1440 ouest rue Ste-Catherine bureau 700
Montreal QC H3G 1R8 CA CANADA

Paper No. 6

In re application of:	:	**DECISION ON PETITION**
Gervasi, Paul.	:	**TO MAKE SPECIAL**
Application No. 10/381,582	:	
Filed: March 10, 2003	:	
For: THEFT DETERRING SHELF AID DISPENSING DEVICE		

This is in response to the petition filed on March 10, 2003 to make the above-identified application special. The delay in acting on this petition is regretted.

The petition is **DISMISSED**.

Applicant has not set forth any basis for the petition to make special. Applicant must identify the basis under which the petition is desired to be made special according to 37 CFR 1.102(d), and to meet the requirements of the corresponding section of MPEP 708.02.

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.

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.

Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(703) 308-3868

snm/ekn: 9/3/03

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

SEP 30 2004

MAILED

SEP 30 2004

OFFICE OF THE DIRECTOR
TC 3600

Francois Martineau
Lesperance & Martineau
1440 ouest rue Ste-Catherine bureau 700
Montreal, QC
H3G 1R8
Canada

In re application of Paul Gervasi Application No. 10/381,582 Filed: March 10, 2003 For: THEFT DETERRING SHELF AID DISPENSING DEVICE	: : : :	**DECISION ON PETITION TO MAKE SPECIAL (INFRINGEMENT)**

This is a decision on the renewed petition under 37 C.F.R § 1.102(d) filed December 29, 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 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 December 29, 2003 meets all of the requirements above and, therefore, the petition is **GRANTED**.

With regards to element 2(C) above, an Information Disclosure Statement was filed on March 10, 2003.

The examiner is directed (1) to make an interference search for possible interfering applications; (2) to promptly examine this application out of turn; and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference and appeal, if any, only if petitioner makes a prompt *bona fide* effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
(703) 308-2121

RAR/vdb: 8/17/04

'09 SEP 2[illegible]3

UNITED STATES PATENT AND TRADEMARK OFFICE

#6

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

BAYER CORPORATION
100 BAYER ROAD
PITTSBURGH PA 15205-9741

In re Application of BRANDT (deceased) Application No.: 10/381,613 PCT No.: PCT/EP01/10797 Int. Filing Date: 19 September 2001 Priority Date: 02 October 2000 Attorney Docket no.: PO-7737/LeA 34, 827 For: POLYCARBONATE OPTICAL FIBRE	DECISION ON SUBMISSION UNDER 37 CFR 1.42

This is a decision on the submission under 37 CFR 1.42 filed in the United States Patent and Trademark Office (USPTO) on 14 July 2003.

On 26 March 2003, applicant filed a Transmittal Letter requesting entry into the national stage in the United States of America under 35 U.S.C. § 371. Filed with the Transmittal Letter was, *inter alia*, the requisite basic national fee. On 16 June 2003, a Notification of Missing Requirements was mailed to applicants indicating that an oath or declaration in compliance with 37 CFR 1.497(a) & (b) and the surcharge for filing the oath or declaration after the thirty month period was required.

On 14 July 2003, in order to satisfy the requirement that an oath or declaration of the inventors be furnished, applicants filed a declaration that was signed by Martina Brandt, Franziska Hanne Brandt and Inken Margarethe Brandt as "heirs" for inventor Heinz-Dieter Brandt (deceased). The declaration was also executed by the joint inventors. The declaration provided the citizenship, residency and mailing address of the inventors and the heirs as well as the last known address, residency and citizenship of the deceased inventor. Additionally, counsel for applicant provided a certified copy of Joint Certificate of Inheritance for Heinz-Dieter Brandt, and English translation thereof, which identifies the names and relationships of the three (3) heirs of the deceased inventor. The requirements of 37 CFR 1.497 have been met.

Accordingly, it is appropriate to accord the application status under 37 CFR 1.42.

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is presently **GRANTED**.

The application will be forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371 date is 14 July 2003.

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office
Telephone: (703) 306-5467

UNITED STATES PATENT AND TRADEMARK OFFICE

Pet. Dec.

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

JUL - 1 2004

DCM

In re Application of	:	
Darrell J. Hadley, Jeffrey D. Hadley, William R. Rey	:	
and Geir O. Erickson	:	
Serial Number: 10/381,623	:	PETITION UNDER
Filed: July 10, 2003	:	M.P.E.P.708.02 IV
For: APPARATUS AND METHOD FOR INCREASING	:	
OXYGEN LEVELS IN A LIQUID	:	

This is in response to the petition filed April 30, 2004, requesting that the above-identified application be granted Special Status under Section 708.02 IV of the MPEP and 37 CFR 1.102(c) (**no fee required**).

The request for Special Status considered under Section 708.02 IV of the MPEP is granted because criteria under 37 CFR 1.102(c) has been met.

Accordingly the petition is **GRANTED.**

Marian C. Knode

Marian C. Knode, Special Programs Examiner
Technology Center 1700
Chemical and Materials Engineering

Randall K McCarthy
Fellers Snider Blankenship Bailey & Tippens
Bank One Tower
100 N Broadway Suite 1700
Oklahoma City, OK 73102-8820

08 JUL 2005

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

Charles N J Ruggiero
Ohlandt Greeley Ruggiero & Perle
10th Floor
One Landmark Square
Stamford, CT 06901-2682

In re Application of	:	
ANTONI et al.	:	
Application No.: 10/381,625	:	
PCT No.: PCT/EP01/11232	:	DECISION
Int. Filing Date: 28 September 2001	:	
Priority Date: 29 September 2000	:	
Attorney's Docket No.: 637.0027USQ	:	
For: ILLUMINATION SYSTEM PARTICULARLY	:	
FOR MICROLITHOGRAPHY	:	

This decision is in response to applicants' "REQUEST FOR CORRECTED FILING RECEIPT" filed 14 February 2005 and applicants' communication filed via facsimile transmission 05 July 2005.

BACKGROUND

On 28 September 2001, applicants filed international application PCT/EP01/11232, which designated the United States and claimed a priority date of 29 September 2000. A copy of the international application was communicated to the USPTO from the International Bureau on 04 April 2002. The thirty-month period for paying the basic national fee in the United States expired at midnight on 29 March 2003.

On 27 March 2003, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 14 February 2005, applicants filed a "REQUEST FOR CORRECTED FILING RECEIPT".

On 05 July 2005, applicants filed via facsimile transmission a communication which included a copy of the "REQUEST FOR CORRECTED FILING RECEIPT" submitted 14 February 2005 along with an indication of how applicants believe the corrected filing receipt should read.

DISCUSSION

The claim to priority under 35 U.S.C. § 120 to U.S. Application No. 10/201,652 complies with 37 CFR 1.78(a)(2)(i)-(iii). The claim to priority to U.S. Application No. 09/679,718 from

international application PCT/EP01/11233 is not proper since the relationship between the international application and 09/679,718 has not been identified. Accordingly, the corrected filing receipt (enclosed) indicates that the instant application is a 371 of PCT/EP01/11232 filed 9/28/2001 and a CIP of 10/210,652 filed 7/22/2002, which is a CIP of 10/150,650 filed 5/17/2002 and a CIP of 09/679,718 filed 9/29/2000, which is a CIP of 09/305,017 filed 5/4/1999. The corrected filing receipt also indicates that the instant application claims foreign priority to international application PCT/EP00/07258 filed 7/28/2000, German application 299 02 108 filed 2/8/1999, German application 199 03 807 filed 2/2/1999, and German application 198 19 898 filed 5/5/1998.

If desired, the defective claims to priority may be corrected with a petition under 37 CFR 1.78.

CONCLUSION

For the reasons set forth above, applicants' request for a corrected filing receipt is **GRANTED**.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301
Facsimile: (571) 273-0459

Enc.: Corrected Filing Receipt

07 JUN 2005

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

Charles Ruggiero
Ohlandt, Greeley, Ruggiero & Perle, L.L.P.
One Landmark Square, 10th Floor
Stamford, CT 06901-2682

In re Application of ANTONI et al	:	
U.S. Application No.: 10/381,626	:	
PCT Application No.: PCT/EP01/11233	:	
Int. Filing Date: 28 September 2001	:	
Priority Date Claimed: 29 September 2000	:	DECISION
Attorney Docket No.: 637.0025USQ	:	
For: ILLUMINATION SYSTEM	:	
PARTICULARLY FOR	:	
MICROLITHOGRAPHY	:	

This is in response to applicant's "Request for Corrected Filing Receipt" filed 27 August 2004.

BACKGROUND

On 28 September 2001, applicant filed international application PCT/EP01/11233, which claimed priority of an earlier United States application filed 29 September 2000. A copy of the international application was communicated to the USPTO from the International Bureau on 04 April 2002. The thirty-month period for paying the basic national fee in the United States expired on 29 March 2003.

On 27 March 2003, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 27 August 2004, applicant filed the present request for corrected filing receipt.

DISCUSSION

Applicant's proposed correction of the filing receipt is not accepted. Specifically, applicant has not identified the relationship between International Application number PCT/EP01/11233 and U.S. Application number 09,679,718. The present request and the

specification state that PCT/EP01/11233 "claims priority of U.S. Patent Application Serial No. 09/679,718." MPEP 201.11, Section III A, provides, "The relationship between the applications is whether the instant application is a continuation, divisional, or continuation-in-part of the prior nonprovisional application."

CONCLUSION

For the reasons above, the request for corrected filing receipt is DISMISSED without prejudice.

If reconsideration on the merits of this decision is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 571-273-0459

27 JUN 2005

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

Charles N J Ruggiero
Ohlandt Greeley Ruggiero & Perle
10th Floor
One Landmark Square
Stamford, CT 06901-2682

In re Application of	:	
ANTONI et al.	:	SUPPLEMENTAL
Application No.: 10/381,626	:	
PCT No.: PCT/EP01/11233	:	DECISION
Int. Filing Date: 28 September 2001	:	
Priority Date: 29 September 2000	:	
Attorney's Docket No.: 637.0025USQ	:	
For: ILLUMINATION SYSTEM PARTICULARLY	:	
FOR MICROLITHOGRAPHY	:	

This decision is supplemental to the decision mailed 07 June 2005 on applicants' "Request for Corrected Filing Receipt" filed 27 August 2004.

BACKGROUND

On 28 September 2001, applicants filed international application PCT/EP01/11233, which designated the United States and claimed a priority date of 29 September 2000. A copy of the international application was communicated to the USPTO from the International Bureau on 04 April 2002. The thirty-month period for paying the basic national fee in the United States expired at midnight on 29 March 2003.

On 27 March 2003, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 27 August 2004, applicants filed a "Request for Corrected Filing Receipt".

On 07 June 2005, a decision was mailed dismissing applicants' request for corrected filing receipt without prejudice. Specifically, it was noted that the relationship between PCT/EP01/11233 and U.S. Patent Application No. 09/679,718 had not been identified.

DISCUSSION

The decision mailed 07 June 2005 failed to address any priority claims other than the one between PCT/EP01/11233 and U.S. Patent Application No. 09/679,718. This supplemental decision addresses the other priority claims.

The claim to priority under 35 U.S.C. § 120 to U.S. Application No. 10/201,652 complies with 37 CFR 1.78(a)(2)(i)-(iii). As noted in the decision mailed 07 June 2005, the claim to priority to U.S. Application No. 09/679,718 from international application PCT/EP01/11233 is not proper since the relationship between the international application and 09/679,718 has not been identified. Additionally, the claim to priority to international application PCT/EP00/07258 is not proper since the relationship between this international application and the instant application has not been identified. Accordingly, the corrected filing receipt (enclosed) indicates that the instant application is a 371 of PCT/EP01/11233 filed 9/28/2001 and a CIP of 10/210,652 filed 7/22/2002, which is a CIP of 10/150,650 filed 5/17/2002 and a CIP of 09/679,718 filed 9/29/2000, which is a CIP of 09/305,017 filed 5/4/1999.

If desired, the defective claims to priority may be corrected with a petition under 37 CFR 1.78.

CONCLUSION

For the reasons set forth above, applicants' request for a corrected filing receipt is **GRANTED**.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for processing in accordance with this decision, that is for issuance of a corrected filing receipt.

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301
Facsimile: (571) 273-0459

Enc.: Corrected Filing Receipt

08 JUL 2005

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

Charles N J Ruggiero
Ohlandt Greeley Ruggiero & Perle
10th Floor
One Landmark Square
Stamford, CT 06901-2682

In re Application of	:	
ANTONI et al.	:	SECOND
Application No.: 10/381,626	:	
PCT No.: PCT/EP01/11233	:	SUPPLEMENTAL
Int. Filing Date: 28 September 2001	:	
Priority Date: 29 September 2000	:	DECISION
Attorney's Docket No.: 637.0025USQ	:	
For: ILLUMINATION SYSTEM PARTICULARLY	:	
FOR MICROLITHOGRAPHY	:	

This decision is supplemental to the supplemental decision mailed 27 June 2005 on applicants' "Request for Corrected Filing Receipt" filed 27 August 2004.

BACKGROUND

On 28 September 2001, applicants filed international application PCT/EP01/11233, which designated the United States and claimed a priority date of 29 September 2000. A copy of the international application was communicated to the USPTO from the International Bureau on 04 April 2002. The thirty-month period for paying the basic national fee in the United States expired at midnight on 29 March 2003.

On 27 March 2003, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 27 August 2004, applicants filed a "Request for Corrected Filing Receipt".

On 07 June 2005, a decision was mailed dismissing applicants' request for corrected filing receipt without prejudice. Specifically, it was noted that the relationship between PCT/EP01/11233 and U.S. Patent Application No. 09/679,718 had not been identified.

On 27 June 2005, a supplemental decision was mailed granting applicants' request for corrected filing receipt but indicating that the "claim to priority to international application PCT/EP00/07258 is not proper since the relationship between this international application and the instant application has not been identified."

CONCLUSION

The portion of the supplemental decision mailed 27 June 2005 stating that the "claim to priority to international application PCT/EP00/07258 is not proper since the relationship between this international application and the instant application has not been identified" is hereby VACATED. This claim to priority complies with 37 CFR 1.55(a)(1) and 37 CFR 1.63(c)(2). Accordingly, the corrected filing receipt (enclosed), in addition to the priority data indicated in the decision mailed 28 June 2005, indicates that the instant application claims foreign priority to international application PCT/EP00/07258 filed 7/28/2000, German application 299 02 108 filed 2/8/1999, German application 199 03 807 filed 2/2/1999, and German application 198 19 898 filed 5/5/1998.

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301
Facsimile: (571) 273-0459

Enc.: Corrected Filing Receipt

BEST AVAILABLE COPY

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 2/8/2007

TO SPE OF : ART UNIT 2800 (2823)

SUBJECT : Request for Certificate of Correction on Patent No.: 7,071,028

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file *(PFW), within 7 days to:
Certificates of Correction Branch – 2900 South Tower ste.9A43A
Palm location 7580 or forward *(IFW) to scanning using document code **COCX**.

*ok to enter changes to abst. as req. in COCIN?

Ernest C. White, LIE (703) 308-9390x122
Certificates of Correction Branch

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- [x] **Approved** — All changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments:

Jack K Chiang
JACK CHIANG
SUPERVISORY PATENT EXAMINER

SPE

2823
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

BEST AVAILABLE COPY

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 2/8/2007

TO SPE OF : ART UNIT 2800 (2823)

SUBJECT : Request for Certificate of Correction on Patent No.: 7,071,028

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file *(PFW), within 7 days to:
Certificates of Correction Branch – 2900 South Tower ste.9A43A
Palm location **7580** or forward *(IFW) to scanning using document code **COCX**.

*ok to enter changes to abst. as req. in COCIN?

Ernest C. White, LIE (703) 308-9390x122
Certificates of Correction Branch

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- [x] **Approved** — All changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments:

JACK CHIANG
SUPERVISORY PATENT EXAMINER

2823

SPE **Art Unit**

PTOL-306 (REV. 7/03) U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

TUCKER, ELLIS & WEST, LLP
1150 HUNTINGTON BUILDING
925 EUCLID AVENUE
CLEVELAND, OH 44115-1475

MAILED
DEC 17 2004
Technology Center 2100

In re Application of: Langford
Application No. 10/381,634
Filed: March 27, 2003
For: METHOD OF LOCATING WEB-PAGES BY UTILISING VISUAL IMAGES

DECISION ON PETITION TO MAKE SPECIAL UNDER M.P.E.P.§708.02(II): INFRINGEMENT

This is a decision on the petition filed August 30, 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.

12/16/04

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
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COPY MAILED

SEP 2 4 2007

OFFICE OF PETITIONS

Morrison & Foerster LLP
1650 Tysons Boulevard
Suite 400
Mclean, VA 22102

In re Application of	:	
Per Vindeby	:	
Application No. 10/381,653	:	DECISION ON PETITION
Filed: August 18, 2003	:	TO WITHDRAW
Attorney Docket No. 118744-075	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 18, 2007.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Morrison & Foerster LLP has been revoked by the assignee of the patent application on September 5, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Terri Williams at 571-272-2991.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Bell, Boyd & Lloyd, LLP**
P.O. Box 1135
Chicago, IL 60690

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 S. Pratt, Esq.
Kilpatrick Stockton, LLP
1100 Peachtree Street
Atlanta, GA 30309

COPY MAILED
SEP 19 2006
OFFICE OF PETITIONS

In re Application of

Leonard Arnowitz et al.
Application No. 10/381,659
Filed: March 28, 2003
Attorney Docket No. 54043.293528

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 15, 2006.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because there remain less than 30 (thirty days) between the date of this decision and the maximum extendable time period for filing a response to the Office action mailed on March 22, 2006

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272- 2991.

David Bucci
Petitions Examiner
Office of Petitions

cc: **Shirley Arnowitz**
Chief Operating Officer
BSI Proteomics Corporation
20400 Observation Drive
Suite 208
Gaithersburg, MD 20876

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 S. PRATT, ESQ
KILPATRICK STOCKTON, LLP
1100 PEACHTREE STREET
ATLANTA GA 30309

COPY MAILED
DEC 2 0 2006
OFFICE OF PETITIONS

In re Application of

Leonard Arnowitz et al.
Application No. 10/381,659
Filed: March 28, 2003
Attorney Docket No. 54043-293528

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 6, 2006.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, ***transfer of patent portfolio***, do not meet any the conditions set forth in 37 CFR 10.40.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272- 2991.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Leonard Arnowitz-BSI proteomics Corporation**
1911 Sunrise Drive
Potomac, MD 20854