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TIMOTHY J. KLIMA
HARBIN KING & KLIMA
500 NINTH STREET SE
WASHINGTON, DC 20003

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OCT 24 2007

OFFICE OF PETITIONS

In re Application of	:	
Igino Conti et al	:	
Application No. 10/381,663	:	DECISION ON PETITION
Filed: March 28, 2003	:	
Attorney Docket No. TK402	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 16, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed August 11, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on November 12, 2004. A Notice of Abandonment was mailed on March 22, 2005.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. *See* MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item (1).

As noted above, the required reply to the outstanding Office action of August 11, 2004 is required to revive this application. As petitioner

indicates that this Office action was not received, a copy thereof accompanies this decision on petition.

The required reply must be accompanied by a renewed petition under 37 CFR 1.137(b) within the time period set above. No additional petition fee is due.

As authorized, the $1,500 petition fee will be charged to petitioner's deposit account.

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.

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) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Copy of August 11, 2004 Office action

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/381,663	03/28/2003	Igino Conti	TK402	1047

34852 7590 08/11/2004

DAVID M. ROWLEY
2297 STANDISH #6
ST. PAUL, MN 55108

EXAMINER
GEHMAN, BRYON P

ART UNIT	PAPER NUMBER
3728	

DATE MAILED: 08/11/2004

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

Office Action Summary	Application No.	Applicant(s)
	10/381,663	CONTI ET AL.
	Examiner	Art Unit
	Bryon P. Gehman	3728

-- 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 *28 March 2003*.

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) *1-20* 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 *3/28/03*.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-20 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. A broad range or limitation together with a narrow range or limitation that falls within the broad range or limitation (in the same claim) is considered indefinite, since the resulting claim does not clearly set forth the metes and bounds of the patent protection desired. Note the explanation given by the Board of Patent Appeals and Interferences in *Ex parte Wu*, 10 USPQ2d 2031, 2033 (Bd. Pat. App. & Inter. 1989), as to where broad language is followed by "such as" and then narrow language. The Board stated that this can render a claim indefinite by raising a question or doubt as to whether the feature introduced by such language is (a) merely exemplary of the remainder of the claim, and therefore not required, or (b) a required feature of the claims. Note also, for example, the decisions of *Ex parte Steigewald*, 131 USPQ 74 (Bd. App. 1961); *Ex parte Hall*, 83 USPQ 38 (Bd. App. 1948); and *Ex parte Hasche*, 86 USPQ 481 (Bd. App. 1949). In the present instance, claims 1 and 4 each recite the broad recitation in lines 1-2 of a "pack of rigid type...for tobacco products", and the claim also recites in the remainder of the claim "a pack (1) comprising..." which is the narrower statement of the range/limitation. It may also comprise double recitation between the pack of line 1 and the pack of line 2, but such is not presently clear.

In claims 1 and 4, line 4, "race" is a misspelling. In line 6, "the free edges" lack antecedent basis. In line 7, "selfsame" is unnecessary and confusing.

In claim 2, line 1, "the void portion" is inconsistent with claim 1, line 31. See also claim 3, line 1.

3. Claims 1-20 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Shown are various packs including exposed coupons.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bryon P. Gehman whose telephone number is (703) 605-1174. The examiner can normally be reached on Monday through Wednesday from 5:30am to 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu, can be reached on (703) 308-2672. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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).

Bryon P. Gehman
Primary Examiner
Art Unit 3728

BPG

DT[illegible] Rec'd PCT/PTO 28 MAR 2003

FORM PTO-1449 (modified)
To: U.S. Department of Commerce
(PW FORM PAT-1449)
Patent and Trademark Office

Atty. Dkt. No. TK402	M#	Client Ref.
	TK402	61.G2475.12.US.1095W

Applicant: CONTI, Igino et al.
Appln. No.: New Application 10/381663
Filing Date: March 28, 2003
Examiner: Unknown | Group Art Unit: Unknown

Information Disclosure Statement by Applicant

Date: March 28, 2003 | Page 1 of 1

U.S. PATENT DOCUMENTS

Examiner's Initials		Document Number	Date MM/YYYY	Name (Family Name of First Inventor)	Class	Sub Class	Filing Date (if appropriate)
DPR	AR	5,236,084	08/1993	Evers			
	BR	5,375,704	12/1994	Focke et al.			
	CR	5,715,936	02/1998	Focke et al.			
	DR	6,513,651	02/2003	Focke et al.			
DPR	ER	6,360,943	03/2002	Focke et al.			
	FR						
	GR						
	HR						
	IR						
	JR						
	KR						
	LR						
	MR						
	NR						

FOREIGN PATENT DOCUMENTS

		Document Number	Date MM/YYYY	Country	Inventor Name	English Abstract Enclosed	English Abstract No	Translation Readily Available Enclosed	Translation Readily Available No
DPR	OR	01/12528	02/2001	WIPO	Focke et al.	☒	☐	☐	☒
	PR	00/05151	03/2000	WIPO	Luton et al.	☐	☐	☐	☐
	QR	19841942	03/2000	Germany	Focke et al.	☒	☐	☒	☐
	RR	19906473	08/2000	Germany	Focke et al.	☒	☐	☒	☐
	SR	19858786	06/2000	Germany	Focke et al.	☒	☐	☐	☒
DPR	TR	087081	08/1983	Europe	Wessels et al.	☐	☒	☐	☒
	UR					☐	☐	☐	☐
	VR					☐	☐	☐	☐
	WR					☐	☐	☐	☐
	XR					☐	☐	☐	☐

OTHER (Including in this order Author, Title, Periodical Name, Pertinent Pages, etc.)

	YR	☐	☐	☐	☐
	ZR	☐	☐	☐	☐
	AAR	☐	☐	☐	☐
	BBR	☐	☐	☐	☐
	CCR	☐	☐	☐	☐
	DDR	☐	☐	☐	☐

Examiner: [illegible] | Date Considered: August 4, 2004

*EXAMINER: Initial if citation 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.

Notice of References Cited	Application/Control No. 10/381,663	Applicant(s)/Patent Under Reexamination CONTI ET AL.	
	Examiner Bryon P. Gehman	Art Unit 3728	Page 1 of 1

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
*	A	US-4,948,038 A1	08-1990	Moeller, Robert E.	229/146
*	B	US-5,845,770 A1	12-1998	James et al.	206/268
*	C	US-6,138,823 A1	10-2000	Focke et al.	206/259
*	D	US-6,474,469 B1	11-2002	Luton et al.	206/268
*	E	US-6,736,262 B2	05-2004	Focke et al.	206/268
*	F	US-6,742,652 B1	06-2004	Focke et al.	206/268
	G	US-			
	H	US-			
	I	US-			
	J	US-			
	K	US-			
	L	US-			
	M	US-			

FOREIGN PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

NON-PATENT DOCUMENTS

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
	W	
	X	

*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.

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OFFICE OF PETITIONS

In re Application of	:	
Igino Conti et al.	:	
Application No. 10/381,663	:	ON PETITION
Filed: March 28, 2003	:	
Attorney Docket No. TK402	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed December 26, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely respond to the non-final Office action mailed August 11, 2004, which set a shortened statutory period for reply of three (3) months. Accordingly, by operation of law, the above-identified application became abandoned on November 12, 2004.

The petition decision mailed October 24, 2007 dismissed the petition under 37 CFR 1.137(b) filed January 16, 2007 for failure to provide the required reply under 37 CFR 1.137(b)(1).

The instant renewed petition includes an amendment in response to the August 11, 2004 non-final Office action.

The renewed petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee of $1,500; and (3) the required statement of unintentional delay have been received. Accordingly, the amendment is accepted as having been unintentionally delayed.

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

The application file is being referred to Technology Center Art Unit 2841 for appropriate action on the merits.

David Bucci
Petitions Examiner
Office of Petitions

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Washington, DC 20003

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OFFICE OF PETITIONS

In re Application of	:	
Igino Conti et al.	:	
Application No. 10/381,663	:	DECISION ON PETITION
Filed: March 28, 2003	:	
Attorney Docket No. TK402	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 11, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before July 2, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed April 2, 2008. Accordingly, the date of abandonment of this application is July 3, 2008. A Notice of Abandonment was mailed on July 30, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1440 and the publication fee of $300, (2) the petition fee of $1540, and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fees are accepted as being unintentionally delayed.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Since the statement contained in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the petition is being construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the petition.

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

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

Carl Friedman
Petitions Examiner
Office of Petitions

13 AUG 2003

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Blank Rome LLP
900 17th Street, NW, Suite 1000
Washington, DC 20006

In re Application of	:	
Heppe	:	
US Application No.: 10/381,670	:	**DECISION ON**
PCT Application No.: PCT/US01/18946	:	**PETITION FOR REVIVAL**
International Filing Date: 14 June 2001	:	**UNDER 37 CFR 1.137(b)**
Priority Date: 14 June 2000	:	
Attorney's Docket No.: 000571.00018	:	
For: ENHANCED GNSS RECEIVER	:	

The petition to revive under 37 CFR 1.137(b), filed on 27 March 2003 in the above-captioned application, is hereby **GRANTED** as follows.

BACKGROUND

On 14 June 2001, Applicant filed international application PCT/US01/18946, which claimed priority of an earlier application filed on 14 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 14 January 2002, the end of the nineteen-month period from the 14 June 2000 priority date. The period for entering the national stage is thus thirty months and ended at midnight on 14 December 2002.

The basic national fee required by 37 CFR 1.495(b) was not filed on or before 16 December 2002 (Monday). The international application became abandoned as to the United States on 15 December 2002.

ANALYSIS

The instant petition is accompanied by:

(1) A transmittal letter for entry into the national stage in the United States (Form PTO-1390), accompanied by the $360 basic national fee (small entity) required by 35 U.S.C. 371(c)(1) and 37 CFR 1.495(a)(1);

(2) The $650 petition fee (small entity);

(3) A statement to the effect that the entire delay in filing the basic national fee from its due date until the filing of the instant petition under 37 CFR 1.137(b) was unintentional.

Moreover, a terminal disclaimer is not applicable in the instant case.

CONCLUSION

In view of the above, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the national stage in the United States of America.

In addition, the $65 surcharge (small entity) required under 37 CFR 1.492(e) for lacking an acceptable oath or declaration upon commencement of the national stage is enclosed with the instant petition.

Applicant's claim for priority is acknowledged. The application has an international filing date of 14 June 2001 under 35 U.S.C. 363.

The application is being returned to the National Stage Processing Division of the Office of PCT Operations for continued processing, including mailing of a Notification of Missing Requirements under 35 U.S.C. 371, requiring an oath or declaration in compliance with 37 CFR 1.497(a)-(b).

Leonard Smith
PCT Legal Examiner
PCT Legal Office

RC Tang
Petitions Attorney
PCT Legal Office
Telephone: 703-308-1315
Facsimile: 703-308-6459

05 JUL 2005

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IPSOLON, LLP
805 SW Broadway, #2740
Portland, Oregon 97205

In re Application of BURSILL, Donald William Application No. 10/381,682 PCT No.: PCT/GB01/04277 Int. Filing Date: 25 September 2001 Priority Date: 27 September 2000 Attorney Docket No.: 1085-049/JRD For: GAMBLING APPARATUS AND METHOD OF MONITORING A GAMBLING EVENT	DECISION ON PETITION UNDER 37 CFR 1.181

This decision is in response to applicant's "Submittal under 37 CFR 1.8(b) Concerning Timely Filed Correspondence Not Received in the US Patent and Trademark Office," which is being treated as a petition to withdraw a holding of abandonment under 37 CFR 1.181 filed in the Patent and Trademark Office (PTO) on 26 January 2005. No petition fee is required.

BACKGROUND

On 25 September 2001, applicant filed international application no. PCT/GB01/04277 which claimed a priority date of 27 September 2000. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 04 April 2002. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States expired at midnight on 27 March 2003.

On 27 March 2003, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by, inter alia,: the basic national fee; a copy of the international application; and an application data sheet.

On 14 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. The notification set a two-month time limit in which to respond.

On 30 July 2004, applicant filed a second preliminary amendment.

On 23 November 2004, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Abandonment indicating that the application was abandoned for failure to respond to the Notification of Missing Requirements mailed 14 July 2003.

On 26 January 2005, applicant filed the present petition requesting, in effect, that the holding of abandonment in the case be withdrawn on the grounds that applicant filed a response on 06 November 2003. The petition was accompanied by: a copy of a communication regarding submission of declaration; a copy of the declaration allegedly filed 06 November 2003; and a copy of the application data.

DISCUSSION

A review of the application file reveals that the original declaration allegedly filed 06 November 2003 under 37 CFR 1.8 is not located therein.

37 CFR 1.8 states:

> In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the Patent and Trademark Office, and the application is held to be abandoned or the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:
>
> (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
> (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
> (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Commissioner to the previous timely mailing or transmission.

The evidence filed with the petition is convincing that a response including a declaration was filed with a certificate of mailing dated 06 November 2003. The response filed 06 November 2003 was timely to the Notification of Missing Requirements mailed 14 July 2003. Additionally, applicant has: (1) informed the Office of the previous mailing of the correspondence promptly after becoming aware that the Office did not receive the items mailed 06 November 2003, (2) supplied copies of the previously mailed correspondence; and (3) John R. Dawson attests that, "the undersigned applicant's attorney hereby states and attests on personal knowledge basis that the previous mailings did occur . . . " Thus, it is considered appropriate to withdraw the holding of abandonment.

Accordingly, it is considered appropriate to withdraw the holding of abandonment.

CONCLUSION

As construed above, applicants' petition under 37 CFR 1.181 to withdraw the holding of abandonment is **GRANTED**.

Deposit Account No.50-0241 has been charged a $65.00 surcharge fee under 37 CFR 1.492(e) for supplying an oath or declaration later than 30 months from the earliest claimed priority date, as authorized. Additionally, Deposit Account No. 50-0241 has been charged $210 under 37 CFR 1.17(a)(2).

The Notification of Abandonment mailed on 23 November 2004 is hereby **VACATED**.

The application has an international filing date of 25 September 2001 under 35 U.S.C. 363, and a 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) date of **26 January 2005**.

This application is being forwarded to the National Stage Processing Branch of the International Division for further processing.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3298
Facsimile: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON DC 20005

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Lars Ballisager et al :
Application No. 10/381,694 :
Filed: March 27, 2003 :
Attorney Docket No. 66722-025-7 :

This is a decision on the petition, filed December 21, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 18, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2643 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
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Paper No. _____

Date : December 22, 2004

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of Application No. 10/381,694

Applicant(s) :Lars Ballisager et al
Application No. :10/381,694
Filed :March 27, 2003

The above-identified application has been assigned Patent No. 6,836,550 and an issue date of December 28, 2004.

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

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of December 28, 2004:

"All reference to Patent No. 6,836,550 to Lars Ballisager et al of Denmark for HEARING AID WITH A RADIO FREQUENCY RECEIVER appearing in the Official Gazette of December 28, 2004 should be deleted since no patent was granted."

Karen Creasy

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

cc: Paul Harrison, Crystal Park 3-441 (FAX-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-910 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane Davis (CDS), CM1-6A07
Tamara Greene, Crystal Park 3-908

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/381,717	07/18/2003	Stephen McCann	038819.52303US	7582

23911 7590 04/23/2010
CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON, DC 20044-4300

EXAMINER
HUSSAIN, TAUQIR

ART UNIT	PAPER NUMBER
2452	

MAIL DATE	DELIVERY MODE
04/23/2010	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.

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APR 22 2010

DIRECTOR OFFICE
TECHNOLOGY CENTER 2400

Stephen W. Palan
CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON DC 20044-4300

In re Application of: MCCANN, Stephen, et. al.
Application No. **10/381,717**
Filed: March 28, 2003
Docket No. 038819.52303US
Title: METHOD OF PROCESSING DATA PACKETS

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

This is a decision on petition filed March 25, 2010 under 37 CFR § 1.181 to invoke Supervisory Authority of the Commissioner to seeks relief from Examiner's action in relation to the Final Office Action mailed ***March 18, 2010, namely,*** requesting the withdrawal of the finality thereof.

This petition is **GRANTED.**

RELEVANT HISTORY PROSECUTION

07/07/09 Non-final office action was mailed, wherein claims 1-12, and 14-20 were rejected being anticipated by Mahler et. al. (US 6,542,504). Claim 7 was rejected as being unpatentable over Mahler et. al. in view of Dvir et. al. (US 6,557,001). The action additionally rejected claim 14 under 35 U.S.C. 112 second and under 35 U.S.C. 101 as being directed to non-statutory subject matter.

11/02/09 Reconsideration/Reply under 37 C.F.R. §1.111 was filed which included amendments to: (i) claim 14 to obviates rejections under 35 U.S.C. 112 second and under 35 U.S.C. 101; (ii) claims 2, 4, 9, and 11-12; and (iii) adding claim 21.

03/18/10 Final office action was mailed, wherein claims 1 and 14-15 were rejected being anticipated by Mahler et. al. Claims 2-6, 8-12 and 16-21 were rejected under 35 U.S.C. 103(a) as being unpatentable over Mahler in view of Auebach et. al. (US 6,618,506). Claim 7 was rejected as being unpatentable over Mahler et. al. in view of Dvir et. al.

03/25/10 Petition under 37 CFR § 1.181 ***requesting*** the withdrawal of the finality.

REGULATION AND PROCEDURES

803.02 Amendments submitted after the final rejection further restricting the scope of the claim may be denied entry *if they do not* comply with the requirements of 37 C.F.R. §1.116. See MPEP § 714.13.

1.115 Preliminary Amendments: § 1.116 Amendments and affidavits or other evidence after final action and prior to appeal. (a) An amendment after final action must comply with § 1.114 or this section. (b) After a final rejection or other final action (§ 1.113) in an application or in an ex parte reexamination filed under § 1.510, or an action closing prosecution (§ 1.949) in an inter partes reexamination filed under § 1.913, but before or on the same date of filing an appeal (§ 41.31 or § 41.61 of this title): (1) An amendment may be made canceling claims or complying with any requirement of form expressly set forth in a previous Office action.

706.07(a) [R-6] Final Rejection, When Proper on Second Action

A second or any subsequent action on the merits in any application or patent involved in reexamination proceedings should not be made final if it includes a rejection, on prior art not of record, of any claim amended to include limitations which should reasonably have been expected to be claimed. See MPEP § 904 et seq. However, note that an examiner cannot be expected to foresee whether or how an applicant will amend a claim to overcome a rejection except in very limited circumstances (e.g., where the examiner suggests how applicant can overcome a rejection under 35 U.S.C. 112, second paragraph).

1207.04 [R-3] Reopening of Prosecution After Appeal

The examiner may, with approval from the supervisory patent examiner, reopen prosecution to enter a new ground of rejection after appellant's brief or reply brief has been filed. The Office action containing a new ground of rejection may be made final if the new ground of rejection was (A) necessitated by amendment, or (B) based on information presented in an information disclosure statement under 37 CFR 1.97(c) where no statement under 37 CFR 1.97(e) was filed. See MPEP § 706.07(a). Any after final amendment or affidavit or other evidence that was not entered before must be entered and considered on the merits.

DECISION

Final office action mailed March 18, 2010 (hereafter referred to a Final action) for which Petitioner seeks relief of Examiner's action, specifically, its final designation, has been fully considered.

Final action was mailed in response to Amendment filed November 02, 2009. This Response did **not** include amendments to (at least) claims 16-20. Nevertheless, the final rejection included new grounds of rejection for claims 16-20, namely, Mahler in view of Auebach et. al. These new grounds were not necessitated by Applicants' amendment or based on information submitted in an Information Disclosure Statement filed during the period set forth in 37

C.F.R. § 1.97(c). Additionally, Auerbach was not submitted in an Information Disclosure Statement filed during the period set forth in 37 C.F.R. § 1.97(c).

For the reason(s) above-mentioned this petition is hereby **granted**.

Finality of action mailed March 25, 2010 is hereby **withdrawn**.

Application will be forwarded to respective Technical Support Staff for withdrawal of finality of office action mailed March 25, 2010. Application has been forwarded to examiner for proper treatment of Applicant's response mailed November 02, 2009 and issuance of corresponding office action in due course.

Any inquiry regarding this decision should be directed the undersigned whose telephone number is (571) 272-3902. If attempts to reach the undersigned by telephone are unsuccessful, Kim Huynh, Quality Assurance Specialist, can be reached at (571) 272-4147.

/bp/

/Beatriz Prieto/

Beatriz Prieto, Quality Assurance Specialist
Technology Center 2400,
Network, Multiplexing, Cable and Security

19 AUG 2[illegible]3

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FLESHNER & KIM, LLP
P.O. Box 221200
Chantilly, VA 20153

In re Application of Sang-O park Application No.: 10/381,721 PCT No.: PCT/KR01/01406 Int. Filing Date: 20 August 2001 Priority Date: 21 August 2000 Attorney's Docket No.: K-0505 For: SUB PICTURE CONTROL APPARATUS AND METHOD FOR TELEVISION RECEIVER	DECISION ON PETITION UNDER 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 28 March 2003.

BACKGROUND

On 07 March 2001, this international application was filed, claiming an earliest priority date of 07 March 2000. A copy of the intentional application was transmitted on 28 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 21 March 2003. This international application became abandoned with respect to the United States at midnight on 21 March 2003 for failure to pay the required basic national fee.

On 28 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, basic national fee, and an executed declaration.

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. The 35 USC 371 date of this application is **28 March 2003**.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Telephone: (703) 308-6312
Facsimile: (703) 308-6459

SPE: C. Tsang

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/22/07

TO SPE OF : ART UNIT 1654

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/381,734 Patent No.: 7199100

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

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

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

Lamonte M. Newsome
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

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

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

Comments: It is unclear where are the changes.

Chak Tsang — SPE

1654 — Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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Date Mailed : 08/15/07

Patent No. : 7199100 B2
Patent Issued : 04/03/07
Docket No. : **235834USOXPCT**

Re: Request for Certificate of Correction

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

Respecting the alleged errors in the documents filed on 06/18/07; please see attachment. **"Therefore, no correction(s) is in order here under United States Codes (U.S.C.) 254 and the Code of Federal Regulation (C.F.R.) 1322."**

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

Lamonte M. Newsome

Lamonte M. Newsome
For Cecelia Newman, Supervisor
Decisions & Certificates
Of Correction Branch
(703) 305-8309 or (703)-308-9390 #112

OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

LMN

SPE: C. Tsang

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/22/07

TO SPE OF : ART UNIT 1654

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/381,734 Patent No.: 7199100

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

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

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

Lamonte M. Newsome
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

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

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

Comments: It is unclear where are the changes.

Cecilia Tsang — SPE

1654 — Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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Date Mailed : 04/28/08

Patent No. : 7199100 B2
Patent Issued : 04/03/07
Docket No. : **235834USOXPCT**

Re: Request for Certificate of Correction

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

Respecting the alleged errors in the documents filed on 11/30/07; please see attachment. **"Therefore, no correction(s) is in order here under United States Codes (U.S.C.) 254 and the Code of Federal Regulation (C.F.R.) 1322."**

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

Lamonte M. Newsome
For Mary Diggs, Supervisor
Decisions & Certificates
Of Correction Branch
(703) 305-8309 or (703)-308-9390 #112

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

LMN

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : March 07, 2008

TO SPE OF : ART UNIT **1654**

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/381734 Patent No.: 7199100 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: Please DO NOT enter. It does not appear to be an obvious error.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

/Cecilia Tsang/ SPE, 1654

SPE Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/07/08

TO SPE OF : ART UNIT 1654

SUBJECT : Request for Certificate of Correction for Appl. No.: 10381734 Patent No.: 7199100 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Lamonte M. Newsome
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

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

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

Comments: _____

Cecilia J. Tsang
Supervisory Patent Examiner
Technology Center 1600

SPE Cecilia Tsang **Art Unit** 1654

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date Mailed : 04/30/09

Patent No. : 7199100 B2
Patent Issued : 04/03/07
Docket No. : **235834USOXPCT**

Re: Request for Certificate of Correction

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

Respecting the alleged errors in the documents filed on 09/15/08; please see attachment. **"Therefore, no correction(s) is in order here under United States Codes (U.S.C.) 254 and the Code of Federal Regulation (C.F.R.) 1322."**

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

Lamonte M. Newsome

Lamonte M. Newsome
For Mary Diggs, Supervisor
Decisions & Certificates
Of Correction Branch
(703) 305-8309 or (703) 756-1574

OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

LMN

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/07/08

TO SPE OF : ART UNIT 1654

SUBJECT : Request for Certificate of Correction for Appl. No.: 10381734 Patent No.: 7199100 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Lamonte M. Newsome
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

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

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

Comments: _____

Cecilia J. Tsang
Supervisory Patent Examiner
Technology Center 1600

SPE Cecilia Tsang Art Unit 1654

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)
6871618	2005-03-29	10381738	2003-08-29	235672USMF

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	/Marvin J. Spivak/	Date (YYYY-MM-DD)	2009-07-07
Name	Marvin J. Spivak	Registration Number	24913

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 6871618
Issue Date: March 29,2005
Application No. 10381738
Filed: August 29,2003
Attorney Docket No. 235672US6XPCT

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

This is a decision on the electronic petition, filed July 7,2009 ,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 7,2009 .
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

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

TIMOTHY J. KLIMA
HARBIN KING & KLIMA
500 NINTH STREET SE
WASHINGTON DC 20003

COPY MAILED

JAN 18 2006

OFFICE OF PETITIONS

In re Application of :
Fiorenzo Draghetti et al :DECISION ON PETITION
Application No. 10/381,747 : UNDER 37 CFR 1.8(b)
Filed: March 28, 2003 :
Attorney Docket No. TK401 :

This is a decision on the petition filed July 25, 2005, which is being treated as a petition under 37 CFR 1.8(b), to withdraw the holding of abandonment in the above-identified application.

The petition is granted.

This application was held abandoned for failure to timely respond to the Office action of September 20, 2004.

Petitioner states that a timely response was mailed via certificate of mailing on March 17, 2005, along with a check for $1020 to cover the required extension of time fee.

The file record does not include the originally submitted papers. Failure to receive correspondence which includes a certificate of mailing or certificate of facsimile transmission is addressed in 37 CFR 1.8(b), reproduced below:

> In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after

becoming aware that the Office has no evidence of receipt of the correspondence;

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

The petition satisfies the above requirements of 37 CFR 1.8(b). Accordingly, the holding of abandonment for failure to timely file a reply to the Office action of September 20, 2004, is hereby withdrawn and the application is restored to pending status.

The copy of the reply received with the petition will be accepted in place of the reply shown to have been mailed (or transmitted by facsimile) on March 17, 2005.

This matter is being referred to Technology Center AU 3728 for appropriate action on the Amendment submitted with the instant petition.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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WASHINGTON, D.C. 20231
www.uspto.gov

02 MAY 2003

Jamie L. Greene
KILPATRICK STOCKTON LLP
Suite 2800
1100 Peachtree Street
Atlanta, Georgia 30309-4530

In re Application of	:	
Otto FROELICH, et al.	:	
Application No.: 10/381,752	:	DECISION ON
PCT No.: PCT/US01/00432	:	PETITION
Int. Filing Date: 05 January 2001	:	UNDER 37 CFR 1.10(e)
Priority Date: 05 January 2000	:	
For: EPIDIDYMAL ANTIMICROBIAL	:	
PEPTIDES	:	

This decision is in response to applicants' "PETITION TO ESTABLISH FILING DATE OF U.S. NATIONAL PHASE PATENT APPLICATION UNDER 37 C.F.R. §1.10(e) AND ACCEPTANCE OF COPIES" filed 01 April 2003 under 37 CFR 1.10 requesting the Office to accord a filing date of 02 July 2002 to national stage papers of PCT/US01/00432 submitted with the Petition.

BACKGROUND

On 05 January 2001, applicants filed international application PCT/US01/00432, which claimed priority of an earlier US application filed 05 January 2000. A Demand for international preliminary examination, in which the United States was elected, was filed on 03 August 2001, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee to enter the national stage in the United States expired at midnight on 05 July 2002.

On 02 July 2002, applicants allegedly filed papers for entry into the national stage in the United States under 35 U.S.C. 371. The papers were not received in the Patent and Trademark Office.

On 01 April 2003, applicants filed the present petition requesting the Office to accept copies of the national stage papers for PCT/US01/00432 allegedly sent previously and to accord an earlier filing date of 02 July 2002 under 37 CFR 1.10. Submitted with the petition

was, among others, a copy of the "Express Mail" label No. EV041959582US and a copy of the United States Postal Service (USPS) receipt confirming that the "Express Mail" package was delivered to the Office on 05 July 2002.

DISCUSSION

Under 37 CFR 1.10(e), *"any person mailing correspondence addressed as set out in § 1.1(a) to the Office with sufficient postage utilizing the "Express Mail Post Office to Addressee" service of the USPS but not received by the Office, may petition the Commissioner to consider such correspondence filed in the Office on the USPS deposit date, provided that:*

> *(1) The petition is filed promptly after the person becomes aware that the Office has no evidence of receipt of the correspondence;*
>
> *(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail";*
>
> *(3) The petition includes a copy of the originally deposited paper(s) or fee(s) that constitute the correspondence showing the number of the "Express Mail" mailing label thereon, a copy of any returned postcard receipt, a copy of the "Express Mail" mailing label showing the "date-in," a copy of any other official notation by the USPS relied upon to show the date of deposit, and, if the requested filing date is a date other than the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS, a showing pursuant to paragraph (d)(3) of this section that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day; and*
>
> *(4) The petition includes a statement which establishes, to the satisfaction of the Commissioner, the original deposit of the correspondence and that the copies of the correspondence, the copy of the "Express Mail" mailing label, the copy of any returned postcard receipt, and any official notation entered by the USPS are true copies of the originally mailed correspondence, original "Express Mail" mailing label, returned postcard receipt, and official notation entered by the USPS."*

All of the items mentioned above have been satisfied. The evidence submitted with the present petition in the form of the "Express Mail" label No. EV041959582US with the date of "JUL 02 2002" stamped by the USPS postal clerk, which number is listed on the Transmittal Letter to the U.S. Designated/Elected Office, and in the form of a delivery confirmation receipt from the postal service is sufficient to conclude that a Transmittal Letter to the U.S. Designated/Elected Office for PCT application PCT/US01/00432 has been

received in the Office. Accordingly, the petition to accept copies of national stage papers of PCT/US01/00432 submitted with the Petition and to accord a filing date of 02 July 2002 may be accepted.

DECISION

In view of the discussion mentioned above, applicants' petition under 37 CFR 1.10(e) requesting acceptance of the papers filed 01 April 2003 as being filed 02 July 2002 is **GRANTED**.

The application is being returned to the United States Receiving Office for further processing.

Boris Milef
PCT Legal Examiner
PCT Legal Office

Nguyên Ngoc-Hô
Paralegal Specialist
PCT Legal Office

NNH/BM:hn

Tel: (703) 308-6508

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Chicago IL 60610

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AUG 07 2008

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Chikada et al. :
Application No. 10/381,754 :
Filed: March 26, 2003 :
Attorney Docket No. 9683/146 :

This is a decision on the petition, filed January 25, 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 to withdraw the holding of abandonment is **GRANTED**.

This application became abandoned for failure to timely submit a response to the Notice of Non Compliant Office Action.[1] Accordingly, this application was held abandoned. A Notice of Abandonment was mailed on January 10, 2008.

Petitioner asserts that the final Office Action mailed on May 5, 2005 was never 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

[1] It is noted that a Notice of Noncompliant Amendment has not been located in the record.

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 and docketed must be attached to and referenced in the practitioner's statement.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition satisfies the above-stated requirements. Accordingly, the application was not abandoned in fact.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

This application is being forwarded to Art Unit 2153 for re-mailing of the notice of non-compliant amendment. The one month extendable time period for reply will be set to run from the mailing date of the Office Action.

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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01 AUG 2003

BRINKS HOFER GILSON & LIONE
P.O. Box 10395
Chicago, Illinois 60610

In re Application of:	:	
KING, Randall, et al.	:	DECISION ON PETITION TO
U.S. Application No.: 10/381,764	:	REVIVE ABANDONED
PCT No.: PCT/US01/17520	:	APPLICATION UNDER 37
International Filing Date:31 May 2001	:	CFR 1.137(b)
Priority Date: 31 May 2000	:	
Attorney's Docket No.: 10970-148	:	
For: OVER-RUNNING CLUTCH PULLEY WITH	:	
COATING MATERIAL	:	

The petition to revive under 37 CFR 1.137(b) filed 28 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 basic national fee and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application is granted as to the national stage in the United States of America.

This application is being returned to the National Stage Processing Division of the Office of PCT Operations for further processing in accordance with this decision, including the issuance of a Notification Of Missing Requirements requiring submission of an oath or declaration in compliance with 37 CFR 1.497 and the surcharge for filing the declaration later than thirty months after the priority date.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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3200 SOUTHWEST FREEWAY
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HOUSTON, TX 77027

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APR 11 2005

OFFICE OF PETITIONS

In re Application of :
Paulo S. Tubel :
Application No. 10/381,766 :
Filed: March 28, 2003 :
Attorney Docket No. D8430-10 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed February 17, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed July 13, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on October 14, 2004.

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

This matter is being referred to Publishing Division.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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RICHARD A. FAGIN
P.O. BOX 1247
RICHMOND, TX 77406-1247

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JUN 16 2010

OFFICE OF PETITIONS

In re Patent of Tubel	:	
Patent No. 6,899,178	:	
Issue Date: May 31, 2005	:	Decision on Petition
Application No. 10/381,766	:	
Filing Date: March 28, 2003	:	
Attorney Docket No. ZIE-10-01	:	

This is a decision on the petition filed February 16, 2010, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED.**

The patent issued May 31, 2005. The last day of the grace period for paying the 3.5 year maintenance fee was Monday, June 1, 2009. This petition was filed within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e). Therefore, this petition was timely filed under the provisions of 37 CFR 1.378(c).

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

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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LADAS & PARRY LLP
224 SOUTH MICHIGAN AVENUE
SUITE 1600
CHICAGO, IL 60604

Mail Date: 04/21/2010

Applicant	: Ningshao Xia	: DECISION ON REQUEST FOR
Patent Number	: 7615228	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/381,770	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/28/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **813** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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LADAS & PARRY LLP
224 SOUTH MICHIGAN AVENUE
SUITE 1600
CHICAGO, IL 60604

Mail Date: 05/18/2010

Applicant : Ningshao Xia
Patent Number : 7615228
Issue Date : 11/10/2009
Application No : 10/381,770
Filed : 03/28/2003

: NOTICE CONCERNING IMPROPER
: CALCULATION OF PATENT TERM
: ADJUSTMENT BASED UPON USPTO
: IMPROPERLY MEASURING REDUCTION
: PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to the limit the reduction to the mail date of the response to the 1.312 amendment or other paper. Accordingly, patentee's reductions were greater than warranted.

This notice **VACATES** the previous GRANTED request for recalculation and provides patentee with a revised GRANTED recalculation.

The patent term adjustment has been determined to be **853** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

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

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

17 JUL 2003

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Robert P. Seitter
RatnerPrestia
P.O. Box 980
Valley Forge, PA 19482-0980

In re Application of	:	
FEIGEL, Hans-Jorg	:	
Application No.: 10/381,772	:	DECISION ON PETITION
PCT No.: PCT/EP01/08441	:	UNDER 37 CFR 1.137(b)
Int. Filing Date: 21 July 2001	:	
Priority Date: 28 July 2000	:	
Attorney Docket No.: PC9909US	:	
For: BRAKE MASTER CYLINDER COMPRISING PLUNGER PISTONS . . .		

The petition to revive under 37 CFR 1.137(b) filed 28 March 2003 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "[s]uch failure to enter the national phase by the thirty-month deadline was unintentional" has been construed as meaning that "entire delay in filing the required reply from the due date for the reply until the filing of this petition under 37 CFR 1.137(b) was unintentional."

A review of the application file reveals that applicant has submitted the basic national fee of $900 and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

Deposit Account No. 18-0350 will be charged a $130.00 surcharge fee under 37 CFR 1.492(e) for supplying an oath or declaration later than 30 months from the earliest claimed priority date and a $130 processing under 37 CFR 1.492(f) for supplying an English translation later than 30 months from the earliest claimed priority date.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision. The 35 U.S.C. 371(c) date is **28 March 2003**.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Telephone: (703) 308-6314
Facsimile: (703) 308-6459

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#4

12 AUG 2003

Brinks Hofer Gilson & Lione
PO Box 10395
Chicago, IL 60610

In re Application of LISTON et al. Serial No.: 10/381,773 PCT No.: PCT/US01/17642 Int. Filing Date: 31 May 2001 Priority Date: 31 May 2000 Attorney's Docket No.: 10542-075 For: OVER-RUNNING CLUTCH PULLEY WITH INCREASED SURFACE MICROHARDNESS	DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 28 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 $100 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 issuance of a Notification of Missing Requirements indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and the $130 surcharge for filing the oath or declaration after the thirty month period is required.

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (703) 306-5467

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#3

19 MAY 2003

BRINKS HOFER GILSON & LIONE
P.O. Box 10395
Chicago, IL 60610

In re Application of	:	
LISTON, Mary-Jo *et al*	:	
U.S. Application No.: 10/381,775	:	
PCT No.: PCT/US01/17430	:	**DECISION ON**
Int. Filing Date: 31 May 2001	:	**PETITION FOR REVIVAL**
Priority Date: 31 May 2000	:	**UNDER 37 CFR 1.137(b)**
Attorney Docket No.: 10542-082	:	
For: OVER-RUNNING CLUTCH PULLEY	:	
WITH CLUTCH AND BEARING	:	

Applicants' "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)" filed with the national stage papers on 28 March 2003 in the above-captioned application is hereby **GRANTED** as follows:

The appropriate basic national fee and petition fee have been paid. Applicants state that "[t]he entire delay in filing the required reply from the due date 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. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

A signed oath or declaration was not included with any of the papers submitted.

Accordingly, this application is being forwarded to the United States Designated/Elected Office for further processing including mailing a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge fee pursuant to 37 CFR 1.492(e) is required.

James Thomson
Attorney Advisor
PCT Legal Office

Tel.: (703) 308-6457

Rec'd PCT/PTO 28 MAR 2003

10/381775 #2

PTO/SB/64/PCT (01-03)
Approved for use through 12/31/2003. OMB 0651-0021
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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

PETITION FOR REVIVAL OF AN INTERNATIONAL APPLICATION FOR PATENT DESIGNATING THE U.S. ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)	Docket Number (Optional) 10542-082

First named inventor: LISTON, Mary-Jo

International (PCT) Application No.: PCT/US01/17430 U.S. Application No.: (if known)

Filed: 31 May 2001

Title: OVER-RUNNING CLUTCH PULLEY WITH CLUTCH AND BEARING

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

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

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:

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

1. Petition fee

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

☒ Other that small entity - fee $ 1,280 (37 CFR 1.17(m))

2. Proper reply

A. The proper reply (the missing 35 U.S.C. 371(c) requirement(s) in the form of Form PTO-1390 _____ (identify type of reply): Transmittal Letter to the United States Designated/Elected Office (DO/EO/US) Concerning a Filing Under 35 U.S.C. 371

☐ has been filed previously on _____.

☒ is enclosed herewith.

04/03/2003 GFREY1 00000134 231925 10381775

02 FC:1453 20.00 CH 1280.00 OP

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

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

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

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

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

28 March 2003
Date

Signature

Jeffrey M. Cox
Typed or printed name

Telephone Number: (734 302-6000

P. O. Box 10395
Address

Chicago, IL 60610

Enclosures: ☒ Response
☒ Fee Payment
☐ Terminal Disclaimer Form
☒ Return Receipt Postcard

Express Mail Label No. EV203113470US

05 SEP 2003

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David J. Alexander
Fina Technology, Inc.
P.O. Box 674412
Houston, TX 77267-4412

In re Application of SAMARCQ	:	
U.S. Application No.: 10/381,778	:	
PCT Application No.: PCT/EP01/03526	:	DECISION
Int. Filing Date: 28 March 2001	:	
Priority Date Claimed: 30 March 2000	:	
Attorney Docket No.: 31223 - 84942	:	
For: GLOSSY PLASTIC CONTAINER	:	

This 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 28 March 2003.

BACKGROUND

On 28 March 2001, applicant filed international application PCT/EP01/03526, which claimed priority of an earlier European Patent Office application filed 30 March 2000. A copy of the international application was communicated to the USPTO from the International Bureau on 29 November 2001. A Demand for international preliminary examination, in which the United States was elected, was filed on 25 October 2001, 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 30 September 2002.

International application PCT/EP01/03526 became abandoned as to the United States for failure to timely pay the basic national fee.

On 28 March 2003, applicant filed the present petition. The petition states that it is accompanied by a proper response under 35 U.S.C. 371, the petition fee set forth in 37 CFR 1.17(m), and a statement that abandonment of the application was unintentional.

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless

previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), applicant has provided the required 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.

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 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 must be filed.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 703-308-6614
Facsimile: 703-308-6459

07 AUG 2003

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Arthur R. Crawford
Nixon & Vanderhye, P.C.
1100 North Glebe Road, 8th Floor
Arlington, VA 22201-4714

In re Application of
OTTING, et al.
U.S. Application No.: 10/381,797
PCT No.: PCT/EP01/06084
Int. Filing Date: 28 May 2001
Priority Date: 26 May 2000
Attorney Docket No.: 35-265
For: STACKABLE TRANSPORT CONTAINER

DECISION ON PETITION

UNDER 37 CFR 1.137(b)

This decision is in response to applicant's "Petition Under Rule 1.137(b) to Revive Unintentionally Abandoned Application" filed 28 March 2003 in the United States Patent and Trademark Office (USPTO). Applicant has provided payment of the $650.00 small entity petition fee.

BACKGROUND

On 28 May 2001, applicant filed international application PCT/EP01/06084, which claimed priority of an earlier application filed 26 May 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 26 November 2002.

On 28 March 2003, applicant filed the present petition to revive accompanied by an executed declaration of the inventors; a check in the amount of $1140 ($650.00 as payment of the petition fee, $450.00 as payment of the full, U.S. basic national fee and $40.00 as payment of the assignment recordation fee).

DISCUSSION

A petition under 37 CFR 1.137(b) requesting that the application be revived on the grounds of unintentional abandonment 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 pursuant to this paragraph was unintentional" and (4) any terminal disclaimer and fee pursuant to 37 CFR 1.137(c) (where required).

With regard to Item (1), the proper response was payment of the full U.S. Basic National

fee. Applicant has provided this payment with the present petition.

As to Item (2), applicant has included the petition fee of $650.00 along with the present petition.

With regard to Item (3), applicant's statement that the "The above identified National Phase of PCT/EP01/06084 was unintentionally abandoned by virtue of the failure to timely file a declaration and pay the filing fee" is being interpreted to mean that the entire delay in providing the proper reply from the due date for providing the proper reply until the filing of a grantable petition pursuant to this paragraph was unintentional. If this is an incorrect reading of applicant's statement applicant should contact the Office of PCT Legal Administration immediately. Applicant's statement and the prompt filing of the petition satisfies the requirement of 37 CFR 1.137(b)(3).

As to Item (4), the terminal disclaimer is not required since this application was filed after 08 June 1995.

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. Further, a review of the present filing reveals that applicant has presently submitted an executed declaration of the inventors and thus all of the requirements of 35 U.S.C. 371 for entry into the national stage in the United States have been satisfied.

CONCLUSION

For the reasons stated above, applicant's petition to revive under 37 CFR 1.137(b) is **GRANTED**.

As authorized, the $65.00 small entity surcharge for providing and execute oath or declaration of the inventors later than thirty months from the earliest claimed priority date with be deducted from Deposit Account No.: 14-1140.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision. The 35 U.S.C. 371(c) date is **28 March 2003**.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: —

DATE : 4/9/08

TO SPE OF : ART UNIT 2616

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/381809 Patent No: 7286530 B2

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

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within 7 days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code COCX.

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within 7 days, to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

VIRGINIA TOLBERT
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

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

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

Comments: _____

RICKY Q. NGO
SUPERVISORY PATENT EXAMINER
SPE

2616
Art Unit

26 JUL 2004

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Fleshner & Kim, LLP
P.O. Box 221200
Chantilly, VA 20153-1200

In re Application of	:	
Choi et al.	:	
Application No. 10/381,816	:	DECISION ON
PCT No.: PCT/KR01/01310	:	
Int. Filing Date: 01 August 2001	:	PETITION UNDER
Priority Date: None	:	
Atty. Docket No.: LULK-0003PCT	:	37 CFR 1.137(b)
For: Integrated Optical Transmitter,	:	
Receiver For Free Space Optical	:	
Communication And Network....	:	

This is in response to the "Resubmission Of Petition To Revive" filed on 24 October 2003.

BACKGROUND

This international application was filed on 01 August 2001, claimed no earlier priority date, and designated the U.S. The International Bureau transmitted a copy of the published international application to the USPTO on 27 March 2003. The 30 month time period for paying the basic national fee in the United States expired at midnight on 01 February 2004.

On 07 July 2003, a Notification of Abandonment (Form PCT/DO/EO/909) was mailed to counsel, indicating that this international application became abandoned with respect to the United States for failure to timely pay the required basic national fee.

On 30 July 2003, applicants filed *inter alia* the basic national fee.

DISCUSSION

The instant "Resubmission..." states that counsel filed a petition under 37 CFR 1.137(b) on 31 July 2003, and is accompanied by a copy of said petition. However, review of the circumstances of this application reveals that the basic national fee was paid on 30 July 2003, which was prior to the elapse of 30 months from the international filing date (no earlier priority date was claimed). As such, the Notification of Abandonment mailed on 07 July 2003 was inappropriate and is hereby **VACATED**.

It is noted that the Declaration of the inventors filed on 30 July 2003 lists an inventor (Young-Wan CHOI) whose name does not appear in the published international application, and that the published international application lists an inventor (Youngwan CHOI) whose name does not appear in the Declaration. The record does not include any statements or evidence of the nature of this discrepancy or how it occurred. Moreover, the declaration is

further defective in that, based on the quality of the fax, it is not clear whether the second inventor's name is "Kyuman" or "Kyoman." Also, the top portion of page 2 has been truncated. As such, it would not be appropriate to accept the declaration filed on 30 July 2003.

DECISION

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

The $650.00 petition fee is being refunded to counsel's Deposit Account No. 14-1140.

This application is being forwarded to the National Stage Processing Branch for further processing, including the preparation and mailing of a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring the submission of an executed oath or declaration of the inventors.

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PCT Legal Office

George M. Dombroske
PCT Legal Examiner
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29 OCT 2003

#4

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Mark L. Fleshner
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In re Application of CHOI, et al. Application No.: 10/381,817 PCT No.: PCT/KR01/01309 Int. Filing Date: 01 August 2001 Priority Date: None Attorney Docket No.: LULK-0002PCT For: OPTICAL TRANSMITTER, RECEIVER FOR FREE SPACE OPTICAL COMMUNICATION AND NETWORK SYSTEM AND APPLICATION APPARATUS THEREOF	DECISION ON PETITIONS UNDER 37 CFR 1.137(b) AND 37 CFR 1.181

This decision is in response to applicant's "RESUBMISSION OF PETITION TO REVIVE" filed in the United States Patent and Trademark Office (USPTO) on 24 October 2003. In addition to consideration of the petition to revive pursuant to 37 CFR 1.137(b), the response is being treated as a petition under 37 CFR 1.181. No additional petition fee is required.

BACKGROUND

On 01 August 2001, applicant filed international application PCT/KR01/01309. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 27 March 2003. 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, 01 February 2004.

On 31 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) and an English translation of the International Application. Applicant did not include payment of the full, U.S. Basic National fee.

On 31 July 2003, applicant filed a petition to revive the present application pursuant to 37 CFR 1.137(b) accompanied by a combined declaration and power of attorney executed by the inventors, an Information Disclosure Statement, an assignment document for recording and checks totaling $1,807.00.

On 13 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 advised of the need to provide payment of the surcharge for providing an oath or declaration later than thirty months from the priority date. Applicant was given two months to respond and advised that this time period could be extended with a proper petition and payment of fees.

On 24 October 2003, applicant responded with the present petition accompanied by "true and correct copies" of the documents filed 31 July 2003.

DISCUSSION

I. Petition Under 37 CFR 1.181

The best evidence of what was actually received by the Office is a postcard receipt containing a specific itemization of all the items being submitted. See MPEP 503. Here, applicant has provided a copy of the date-stamped postcard receipt. The postcard identifies the application by inventors, serial number, title and docket number. Among the items listed on the receipt are "Executed Declaration and Power of Attorney"; New U.S. National Stage Patent App. Transmittal w/ 49 pgs. Spec., claims, abstract; 16 Sheets Drawings (Figs. 1-18)" and Check No, 9955 for $1,117.00 The receipt is stamped "OIPE JC98 Patent & Trademark Office Jul 31 2003." Thus, it is clear that applicant filed an executed combined declaration and power of attorney, and provided payment of the full, U.S. Basic National fee on 31 July 2003. Further, a review of the fee records for this application finds the fees paid on 31 July 2003. For the reasons stated above, it is proper to grant applicant's petition at this time and accept the copy of the combined declaration and power of attorney filed 24 October 2003 as a substitute for the combined declaration and power of attorney originally filed 31 July 2003. Further, a review of the application file reveals that all of the requirements of 35 U.S.C. 371 for entry into the national stage in the United States have now been satisfied.

II. Petition Under 37 CFR 1.137(b)

As detailed above, 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, 01 February 2004. As shown in the discussion of applicant's petition under 37 CFR 1.181, applicant has provided sufficient proof to show that payment of the full, U.S. Basic National fee was provided on 31 July 2003, prior to the expiration of 30 months from the priority date. As such, applicant's petition under 37 CFR 1.137(b) to revive the present application is dismissed as moot. Applicant's $650.00 petition fee will be refunded to Deposit Account No.: 16-0607.

CONCLUSION

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

As explained above, applicant's petition under 37 CFR 1.137(b) is **DISMISSED as moot**.

In addition, $650.00 will be refunded to Deposit Account No.: 16-0607.

The "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371" mailed on 13 August 2003 is hereby **VACATED**.

The application has an international filing date of 01 August 2001 under 35 U.S.C. 363 and will be given a date of **31 July 2003** under 35 U.S.C. 371(c).

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: (703) 305-0130
Fax: (703) 308-6459

10 JUL 20

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Pamela A. Docherty
Calfee, Halter & Griswold LLP
1400 McDonald Investment Center
800 Superior Avenue
Cleveland, OH 44114

In re Application of	:	
Zimberg	:	
US Application No.: 10/381,824	:	
PCT Application No.: PCT/US01/23995	:	**DECISION ON**
International Filing Date: 31 July 2001	:	**PETITION FOR REVIVAL**
Priority Date: 31 July 2000	:	**UNDER 37 CFR 1.137(b)**
Attorney's Docket No.: 26473/04238	:	
For: METHOD OF INCREASING THE	:	
SENSITIVITY OF MAMMOGRAPHY	:	

This decision is in response to the petition under 37 CFR 1.137(b), filed on 27 March 2003 with a transmittal letter for entry into the national stage in the United States (Form PTO-1390).

On 31 July 2001, Applicant filed international application PCT/US01/23995, which claimed priority of an earlier application filed on 31 July 2000. Therefore, the 30-month period for entering the national stage ended on 31 January 2003. On 1 February 2003, the international application became abandoned as to the United States for failure to timely submit the basic national fee required by 37 CFR 1.495(b).

The petition is accompanied by:

(1) The $360 (small entity) basic national fee;

(2) The $650 petition fee (small entity);

(3) A statement that the entire delay in filing the basic national fee from its due date until the filing of the instant petition under 37 CFR 1.137(b) was unintentional.

Moreover, a terminal disclaimer is not applicable in the instant case.

The petition is thus **GRANTED**.

The application is being returned to the National Stage Processing Division of the Office of PCT Operations for continued processing, including mailing of a Notification of Missing Requirements under 35 U.S.C. 371, requiring an oath or declaration in compliance with 37 CFR 1.497(a)-(b), and the surcharge under 37 CFR 1.492(e).

Boris Milef
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PCT Legal Office

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ONE LANDMARK SQUARE
10th FLOOR
STAMFORD, CT 06901-2682

COPY MAILED
JUL 1 1 2006
OFFICE OF PETITIONS

In re Application of	:	
Antoni, et al.	:	
Application No. 10/381,827	:	DECISION ON PETITION
Filed: August 7, 2003	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 637.0024USQ	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed February 6, 2006, to accept an unintentionally delayed claim under 35 U.S.C. 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

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

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

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

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

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

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

Any inquiries concerning this decision may be directed to the Petitions Attorney Edward Tannouse at (571) 272-3228. 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 2851 for appropriate action on the amendment filed February 6, 2006, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications.

Frances Hicks

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

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/381,827	08/07/2003	2851	1100	637.0024USQ	8	17	1

CONFIRMATION NO. 7257

CORRECTED FILING RECEIPT

OC000000019443971

Charles N J Ruggiero Esq
Ohlandt Greeley Ruggiero & Perle LLP
One landmark square
10th floor
Stamford, CT 06901-2682

Date Mailed: 06/30/2006

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

Applicant(s)

Martin Antoni, Aalen, GERMANY;
Wolfgang Singer, Aalen, GERMANY;
Johannes Wangler, Konigsbronn, GERMANY;

Power of Attorney:

Charles Ruggiero--28468
Paul Greeley--31019

Domestic Priority data as claimed by applicant

This application is a 371 of PCT/EP01/11248 09/28/2001
which is a CIP of 09/679,718 09/29/2000 PAT 6,438,199
which is a CIP of 09/305,017 05/04/1999 PAT 6,198,793

Foreign Applications

GERMANY 198 19 898.1 05/05/1998
GERMANY 199 03 807.4 02/02/1999
GERMANY 299 02 108.4 02/08/1999
EUROPEAN PATENT OFFICE (EPO) PCT/EP00/07258 07/28/2000
If Required, Foreign Filing License Granted: 06/29/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/381,827

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Illumination system particularly for microlithography

Preliminary Class

355

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where

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

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

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

NOT GRANTED

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

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AUG 16 2006

OFFICE OF PETITIONS

In re Application of	:	
Antoni, et al.	:	
Application No. 10/381,827	:	CORRECTED DECISION ON
Filed: August 7, 2003	:	PETITION UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 637.0024USQ	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed February 6, 2006, to accept an unintentionally delayed claim under 35 U.S.C. 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

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

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

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

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

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

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

Any inquiries concerning this decision may be directed to the Petitions Attorney Edward Tannouse at (571) 272-3228. 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 2851 for appropriate action on the amendment filed February 6, 2006, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications.

Frances Hicks

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

ATTACHMENT: Corrected Filing Receipt

10 MAR 2004

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In re Application of	:	
KIRSTEN, Christian et al.	:	
Application No.: 10/381,830	:	DECISION
PCT No.: PCT/EP01/10808	:	
Int. Filing Date: 19 September 2001	:	ON REQUEST UNDER
Priority Date: 28 September 2000	:	
Attorney's Docket No.: H 3784 PCT/US	:	37 CFR 1.497(d)
For: ADHESIVES HAVING BARRIER PROPERTIES	:	

This is a decision on "Amendment, Request and Processing Fee to Delete and/or Add to Original Erroneously Named or Not Named Inventor(s) In Application - Nonprovisional Application (37 CFR §1.48(a))" filed on 13 January 2004, which is being treated as a request under 37 CFR 1.497(d).

BACKGROUND

On 19 September 2001, applicant filed international application PCT/EP01/10808, 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 (USPTO) from the International Bureau on 04 April 2002. On 23 April 2003, applicant filed a demand for international preliminary examination which elected the United States, prior to nineteen months from the priority date. The deadline for entry into the national stage in the United States was midnight on 28 March 2003.

On 27 March 2003, applicant filed a submission for entry into the national stage in the United States, accompanied by, *inter alia*, the U.S. Basic National Fee.

On 25 September 2003, the Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that the oath or declaration listed an inventor who was not listed on the international application.

On 13 January 2004, applicant filed the instant request accompanied by the fee for a four month extension of time.

DISCUSSION

The inventors in the international application are Christian Kirsten, Claudia Meckel-Jonas, and Ulrike Brüninghaus. Applicants file this request to add the name of Christian Kropf as inventor.

A request under 37 CFR 1.497(d) requires: (1) a statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part; (2) the processing fee set forth in §1.17(i); and (3) the written consent of the assignee, if an original named inventor has executed an assignment.

Items (1) and (2) have been met. (1) Applicants have provided a statement from the person being added as an inventor, that any error in inventorship occurred without deceptive intention on his part. (2) The processing fee set forth in §1.17(i) has been paid.

As to item (3), applicants incorrectly list the assignee on the consent of the assignee. The consent lists the assignee as "42,637". This is not the assignee on record. Additionally, the consent of assignee is signed by "Patent Manager". This title does not provide apparent authority to bind the assignee and the officers do not certify that they have power to bind the assignee.

CONCLUSION

For the above reasons, applicant's request under 37 CFR 1.497(d) is **REFUSED**.

If reconsideration on the merits of this request is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to timely file the proper response will result in abandonment of this application. Any reconsideration request should include a cover letter entitled "Renewed Request Under 37 CFR 1.497(d)". No additional processing fee is required.

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

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10 OCT 2004

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In re Application of KIRSTEN, Christian et al. Application No.: 10/381,830 PCT No.: PCT/EP01/10808 Int. Filing Date: 19 September 2001 Priority Date: 28 September 2000 Attorney's Docket No.: H 3784 PCT/US For: ADHESIVES HAVING BARRIER PROPERTIES	DECISION ON REQUEST UNDER 37 CFR 1.497(d)

This is a decision on "Renewed Request Under 37 CFR 1.497(d)," filed in the United States Patent and Trademark Office on 07 May 2004.

BACKGROUND

On 19 September 2001, applicant filed international application PCT/EP01/10808, 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 (USPTO) from the International Bureau on 04 April 2002. On 23 April 2003, applicant filed a demand for international preliminary examination which elected the United States, prior to nineteen months from the priority date. The deadline for entry into the national stage in the United States was midnight on 28 March 2003.

On 27 March 2003, applicant filed a submission for entry into the national stage in the United States, accompanied by, *inter alia*, the U.S. Basic National Fee.

On 25 September 2003, the Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that the oath or declaration listed an inventor who was not listed on the international application.

On 13 January 2004, applicant filed a request under 37 CFR 1.497(d) accompanied by the fee for a four month extension of time.

On 10 March 2004, the Office mailed Decision On Request Under 37 CFR 1.497(d) refusing applicant's request.

On 07 May 2004, applicant submitted a renewed request under 37 CFR 1.497(d).

DISCUSSION

The inventors in the international application are Christian Kirsten, Claudia Meckel-Jonas, and Ulrike Brüninghaus. Applicants file this request to add the name of Christian Kropf as inventor.

A request under 37 CFR 1.497(d) requires: (1) a statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part; (2) the processing fee set forth in §1.17(i); and (3) the written consent of the assignee, if an original named inventor has executed an assignment.

Items (1) and (2) were previously satisfied.

As to item (3), applicant incorrectly lists the assignee on the consent of the assignee. The consent lists the assignee as "42,637". No where on the consent is the correct assignee identified. This is not an acceptable consent. Further, the consent of assignee is signed by "Patent Manager". This title does not provide apparent authority to bind the assignee and the officers do not certify that they have power to bind the assignee. Applicant argues that the title "manager"conveys apparent authority to bind the assignee. MPEP 324 sets forth that a "manager ... is not presumed to have authority to sign the submission on behalf of the assignee." Additionally, applicant indicates that a document establishing the authority of the patent managers to bind the assignee was enclosed with this submission. No such paperwork was located in the file.

CONCLUSION

For the above reasons, applicant's request under 37 CFR 1.497(d) is **REFUSED**.

If reconsideration on the merits of this request is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to timely file the proper response will result in abandonment of this application. Any reconsideration request should include a cover letter entitled "Renewed Request Under 37 CFR 1.497(d)". No additional processing fee is required.

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

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In re Application of KIRSTEN, Christian et al. Application No.: 10/381,830 PCT No.: PCT/EP01/10808 Int. Filing Date: 19 September 2001 Priority Date: 28 September 2000 Attorney's Docket No.: H 3784 PCT/US For: ADHESIVES HAVING BARRIER PROPERTIES	DECISION ON REQUEST UNDER 37 CFR 1.497(d)

This is a decision on "Renewed Request Under 37 CFR 1.497(d)," filed in the United States Patent and Trademark Office on 09 November 2004.

BACKGROUND

On 19 September 2001, applicant filed international application PCT/EP01/10808, 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 (USPTO) from the International Bureau on 04 April 2002. On 23 April 2003, applicant filed a demand for international preliminary examination which elected the United States, prior to nineteen months from the priority date. The deadline for entry into the national stage in the United States was midnight on 28 March 2003.

On 27 March 2003, applicant filed a submission for entry into the national stage in the United States, accompanied by, *inter alia*, the U.S. Basic National Fee.

On 25 September 2003, the Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that the oath or declaration listed an inventor who was not listed on the international application.

On 13 January 2004, applicant filed a request under 37 CFR 1.497(d) accompanied by the fee for a four month extension of time.

On 10 March 2004, the Office mailed Decision On Request Under 37 CFR 1.497(d) refusing applicant's request.

On 07 May 2004, applicant submitted a renewed request under 37 CFR 1.497(d).

On 10 September 2004, the Office mailed Decision On Request, refusing applicants' request.

On 09 November 2004, applicant submitted a renewed request under 37 CFR 1.497(d).

DISCUSSION

The inventors in the international application are Christian Kirsten, Claudia Meckel-Jonas, and Ulrike Brüninghaus. Applicants file this request to add the name of Christian Kropf as inventor.

A request under 37 CFR 1.497(d) requires: (1) a statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part; (2) the processing fee set forth in §1.17(i); and (3) the written consent of the assignee, if an original named inventor has executed an assignment.

Items (1) and (2) were previously satisfied.

As to item (3), the consent of the assignee indicates that it is to be signed by multiple representatives of the company and is written in the plural, but only one officer signed the consent. The certification states "the undersigned, being representatives of the assignee with the legal authority to bind the assignee for patent matters, hereby state that the assignee consents..." The certification indicates that multiple officers should have signed the consent. Additionally, the documentation that accompanied the consent is in German. Only English language materials will be considered. If applicant wishes that the material be considered, an English translation must be furnished.

CONCLUSION

For the above reasons, applicant's request under 37 CFR 1.497(d) is **REFUSED**.

If reconsideration on the merits of this request is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to timely file the proper response will result in abandonment of this application. Any reconsideration request should include a cover letter entitled "Renewed Request Under 37 CFR 1.497(d)". No additional processing fee is required.

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

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30 MAR 2005

#13

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In re Application of KIRSTEN, Christian et al. Application No.: 10/381,830 PCT No.: PCT/EP01/10808 Int. Filing Date: 19 September 2001 Priority Date: 28 September 2000 Attorney's Docket No.: H 3784 PCT/US For: ADHESIVES HAVING BARRIER PROPERTIES	DECISION ON REQUEST UNDER 37 CFR 1.497(d)

This is a decision on "Renewed Amendment, Request and Processing Fee," filed in the United States Patent and Trademark Office on 09 February 2005.

BACKGROUND

On 19 September 2001, applicant filed international application PCT/EP01/10808, 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 (USPTO) from the International Bureau on 04 April 2002. On 23 April 2003, applicant filed a demand for international preliminary examination which elected the United States, prior to nineteen months from the priority date. The deadline for entry into the national stage in the United States was midnight on 28 March 2003.

On 27 March 2003, applicant filed a submission for entry into the national stage in the United States, accompanied by, *inter alia*, the U.S. Basic National Fee.

On 25 September 2003, the Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that the oath or declaration listed an inventor who was not listed on the international application.

On 13 January 2004, applicant filed a request under 37 CFR 1.497(d) accompanied by the fee for a four month extension of time.

On 10 March 2004, the Office mailed Decision On Request Under 37 CFR 1.497(d) refusing applicant's request.

On 07 May 2004, applicant submitted a renewed request under 37 CFR 1.497(d).

On 10 September 2004, the Office mailed Decision On Request, refusing applicants' request.

On 09 November 2004, applicant submitted a renewed request under 37 CFR 1.497(d).

On 09 December 2004, the Office mailed Decision On Request refusing applicant's request under 37 CFR 1.497(d).

On 09 February 2005, applicant submitted the instant renewed request.

DISCUSSION

The inventors in the international application are Christian Kirsten, Claudia Meckel-Jonas, and Ulrike Brüninghaus. Applicants file this request to add the name of Christian Kropf as inventor.

A request under 37 CFR 1.497(d) requires: (1) a statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part; (2) the processing fee set forth in §1.17(i); and (3) the written consent of the assignee, if an original named inventor has executed an assignment.

Items (1) and (2) were previously satisfied.

Item (3) has now been satisfied. Applicant has clarified that the consent of the assignee submitted on 09 November 2004, though drafted in the plural and signed by one, did not require multiple officers to be effective. Applicant states that it was a grammatical error.

CONCLUSION

For the above reasons, applicant's request under 37 CFR 1.497(d) is **GRANTED**.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application, including accordation of a 35 U.S.C. §§371(c)(1), (c)(2) and (c)(4) date of **22 July 2003**.

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11 FEB 2005

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In re Application of JAMMES et al. Application No.: 10/381,833 PCT No.: PCT/EP01/11286 Int. Filing Date: 28 September 2001 Priority Date: 30 September 2000 Attorney Docket No.: 21.0909 For: METHOD OF EVALUATING FORMATION PROPERTIES	DECISION ON PETITION UNDER 37 CFR 1.137(a)

This is in response to the petition to revive under 37 CFR 1.137(a), filed in the United States Patent and Trademark Office on 15 November 2004 in the above-identified application.

BACKGROUND

On 28 September 2001, applicant filed international application No. PCT/EP01/11286 which claimed a priority date of 30 September 2000, and which designated the United States. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 11 April 2002.

On 27 March 2003, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by, *inter alia*: the basic national fee.

On 24 June 2003, a Notification of Missing Requirements (Form PCT/DO/EO/905) mailed to applicant indicating that an oath or declaration, in compliance with 37 CFR 1.497(a) & (b), was required.

On 07 October 2004, a Notification of Abandonment (Form PCT/DO/EO/909) was mailed to applicant indicating that applicant had failed to respond to the Notification of Missing Requirements within the time period set therein.

On 15 November 2004, applicant filed the instant petition for revival of an application for patent abandoned unavoidably under 37 CFR 1.137(a).

DISCUSSION

A grantable petition pursuant to 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the requisite 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) any terminal disclaimer (and fee as set forth in 1.20(d)) required pursuant to 37 CFR 1.137(c). Applicant has satisfied item (2) with the payment of the petition fee. Item (4) is not required because the application was filed on or after 08 June 1995..

With regard to item (1), the required reply is the filing of an oath or declaration in compliance with 37 CFR 1.497(a) &(b). Applicant filed an executed declaration with his petition

in compliance with 37 CFR 1.497(a) and (b). The declaration is acceptable.

With regard to item (3), applicant has not provided an acceptable showing that the delay was unavoidable. Applicant explains the delay that caused this application to be abandoned is due to the non-filing of the Declaration, which resulted from the non-receipt of the Notification of Missing Requirements. This showing is inadequate to establish unavoidable delay within the meaning of 37 CFR 1.137(a). Applicant has not filed a petition under 37 CFR 1.181 to withdraw the holding of abandonment based upon non-receipt of an Office action and has not provided any proof of the non-receipt of the 24 June 2003 Notification of Missing Requirements.

A petition to revive an application under 37 CFR 1.137(a) cannot be granted where a petitioner has failed to meet his burden of establishing unavoidable delay within the meaning of 37 CFR 1.137(a) and 35 U.S.C. 133. Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (N.D. Ind. 1987). Therefore, since applicant has not satisfied item (3) above, the granting of the petition under 37 CFR 1.137(a) for revival based on unavoidable delay would not be proper.

RECOMMENDATION

Applicant may wish to file a petition under 37 CFR 1.181 to withdraw the holding of abandonment based upon non-receipt of an Office action and proof of the non-receipt of the 24 June 2003 Notification of Missing Requirements. *See* MPEP 711.03(c) pp.700-162,63 (Rev.2 May 2004).

In the alternative, the dismissal or denial of a petition under 37 CFR 1.137(a) does not preclude an applicant from obtaining relief pursuant to 37 CFR 1.137(b) on the basis of unintentional delay (unless the decision dismissing or denying the petition under 37 CFR 1.137(a) indicates otherwise). In such an instance, a petition under 37 CFR 1.137(b) may be filed accompanied by the fee set forth in 37 CFR 1.17(m), the required reply, a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and any terminal disclaimer required by 37 CFR 1.137(c).

CONCLUSION

Therefore, the petition under 37 CFR 1.137(a) is **DISMISSED** and the application remains **ABANDONED**. If reconsideration on the merits of this petition is desired, an appropriate response to this decision 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 (a)."

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

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24 MAR 2005

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In re Application of JAMMES et al. Application No.: 10/381,833 PCT No.: PCT/EP01/11286 Int. Filing Date: 28 September 2001 Priority Date: 30 September 2000 Attorney Docket No.: 21.0909 For: METHOD OF EVALUATING FORMATION PROPERTIES	DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 25 February 2005 in the above-captioned application is hereby GRANTED as follows:

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

A review of the application file reveals that an executed declaration, in compliance with 37 CFR 1.497(a) & (b) was provided. The required petition fee of $1500 was also paid. Thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is **15 November 2004.**

Cynthia M. Kratz

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OFFICE OF PETITIONS

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In re Application of
Sven Huber et al
Application No. 10/381,849
Filed: February 11, 2004
Attorney Docket No. R.39057

ON PETITION

This is a decision on the petition, filed April 23, 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 March 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 should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 3746 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

---

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

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HOWSON & HOWSON LLP
501 OFFICE CENTER DRIVE
SUITE 210
FORT WASHINGTON, PA 19034

Mail Date: 04/20/2010

Applicant	: Ian Underwood	: DECISION ON REQUEST FOR
Patent Number	: 7601942	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/381,856	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/26/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **138** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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JOSEPH S. TRIPOLI
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PRINCETON, NJ 08543-5312

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FEB 28 2007

OFFICE OF PETITIONS

In re Application of	:	
Barry Jay Weber et al	:	
Application No. 10/381,860	:	ON PETITION
Filed: March 28, 2003	:	
Attorney Docket No. PU00108	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 7, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision. Extensions of time pursuant to the provisions of 37 CFR 1.136(a) are available.

This application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action mailed December 8, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on March 9, 2006. A Notice of Abandonment was mailed on July 14, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal and fee of $500, (2) the petition fee of $1,500, and (3) a proper statement of unintentional delay. Accordingly, the reply to the final Office action December 8, 2005 is accepted as being unintentionally delayed.

This application is being referred to Technology Center AU 2194 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

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

Frances Hicks
Petitions Examiner
Office of Petitions

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12 SEP 2003

Andrew D. Gathy
Sierra Patent Group Ltd.
P.O. Box 6149
Stateline, Nevada 89449

In re Application of	:	
Ziesing, Marcus	:	
Application No.: 10/381,862	:	
PCT No.: PCT/EP01/10455	:	DECISION
Int. Filing Date: 10 September 2001	:	
Priority Date: 28 September 2000	:	
Attorney Docket No.: MAN-007	:	
For: PERSONAL MONITORING SYSTEM	:	

This is a decision on applicant's "Petition" which is being treated as a Request for Refund filed in the Patent and Trademark Office on 22 August 2003.

BACKGROUND

On 26 March 2003, applicant filed a transmittal letter for entry into the national stage in the United States of America. Filed with the transmittal letter were, inter alia: the requisite $530 basic national fee; a copy of the international application; and an English translation of the international application.

On 24 June 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 must be filed. Additionally, the notification indicated that the translation of the international application filed 26 March 2003 was defective, in that, "the number of claims in the International Application and the number of claims in the translation are not the same and that the translational must be a true translation of the published International Application." The notification set a two-month time limit in which to respond.

On 25 August 2003, applicants filed "Transmittal Letter for Response to Missing Parts and Petition" which included an oath or declaration in compliance with 37 CFR 1.497 and an English translation of the international application. Additionally, applicant submitted the requisite surcharge fee for filing a declaration and translation of international application after thirty months from the priority date.

DISCUSSION

Applicant is requesting a refund of the $130 surcharge for filing an English translation later than 30 months from the priority date. Applicant states in the present petition, "[i]t is respectfully requested that the fee for the English translation surcharge of $130 be refunded as the translation was timely submitted with the application." A review of the application file reveals that the English translation of the international application submitted on 26 March 2003 was not in compliance with 37 CFR 1.495. Specifically, the English translation of international application, included with the initial filing, listed 25 claims whereas the published international application listed only 20 claims, which is improper. Thus, applicant was required to resubmit an English translation of the international application and pay the $130 processing fee. Since the English translation of international application filed 25 August 2003 was submitted later than 30 months from the priority date, the charging of the $130 fee under 37 CFR 1.492(f) was proper. Applicant's request for refund is dismissed without prejudice.

The translation of international application filed 25 August 2003 is in compliance with 37 CFR 1.495. A review of the application papers reveals that applicant has completed all the requirements of 35 U.S.C. 371 for entry into the national stage.

CONCLUSION

The request for refund is **DISMISSED** without prejudice.

Applicants are given **TWO (2) MONTHS** from the mail date of this Decision to submit a proper translation of the international application. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be deposited with the United States Postal Service 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.

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

25 JUN 2004

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David R. Burns
Lahive & Cockfield, LLP
28 State Street
Boston, MA 02109

In re Application of BAYER, et al. Application No.: 10/381,869 PUT No.: PCT/EP01/11258 Int. Filing Date: 28 September 2001 Priority Date: 28 September 2000 Attorney Docket No.: AKI-0004US For: OLIGONUCLEOTIDES, AGENTS CONTAINING THESE OLIGO-NUCLEOTIDES, AND THE USE THEREOF	DECISION ON RENEWED PETITION UNDER 37 CFR 1.42

This decision is in response to the applicant's renewed petition under 1.42 filed 02 April 2004 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 29 January 2004, applicant was mailed a decision refusing applicant's request for status pursuant to 37 CFR 1.42 as the filed declaration did not comply 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 Ernst BAYER or the sole heir as required under 37 CFR 1.497(b). Applicant was afforded two months to file a proper response.

On 02 April 2004, applicant filed the present renewed petition accompanied by a newly executed declaration.

DISCUSSION

Pursuant to 37 CFR 1.42, first sentence:

"In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain a patent."

Applicant has presently provided a statement that the declaration has been executed by all

of the heirs of the deceased inventor and that a legal representative has not been appointed nor is statutorily required to be appointed and that Mrs. Inge Bayer is the sole heir to the estate of the deceased inventor. However, it is not possible to accept the declaration executed by Mrs. Bayer detailing her citizenship and residence address. While the signed declaration does identify the application serial number, it does not contain a statement under Section 1001 of Title 18 of the United States Code that the declarant the statements are believed to be true and that willful false statements are punishable by fine or imprisonment, or both. Therefore, it is not possible to accept applicant's renewed request for status at this time.

CONCLUSION

Applicants' petition under 37 CFR 1.42 is **DISMISSED, without prejudice**.

Applicants are 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).

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
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Tel: 703-305-0130
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29 JAN 2004

#4

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Boston, MA 02109

In re Application of BAYER, et al. Application No.: 10/381,869 PUT No.: PCT/EP01/11258 Int. Filing Date: 28 September 2001 Priority Date: 28 September 2000 Attorney Docket No.: AKI-0004US For: OLIGONUCLEOTIDES, AGENTS CONTAINING THESE OLIGO-NUCLEOTIDES, AND THE USE THEREOF	DECISION ON PETITION UNDER 37 CFR 1.42

This decision is in response to the applicant's correspondence filed 07 November 2003 in the United States Patent and Trademark Office (USPTO). The correspondence is being treated as a request for status under 37 CFR 1.42. No petition fee is due.

BACKGROUND

On 28 September 2001, applicant filed international application PCT/EP01/11258 which claimed priority to an earlier application filed 28 September 2000. The thirty-month period for paying the basic national fee in the United States expired at midnight on 28 March 2003.

On 28 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 translation of the international application into English; an unsigned declaration and power of attorney and a First preliminary amendment.

On 15 August 2003, applicant was mailed a "Notification of Missing Requirements" (Form PCT/DO/EO/905) informing applicant that an executed oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) was required. Applicant was afforded two months to file the required response and advised that this period could be extended pursuant to 37 CFR 1.136(a).

On 07 November 2003, applicant filed the response including an executed combined

declaration and power of attorney accompanied by a petition for a one-month extension of time and payment of the appropriate petition fee. With the filing of the petition for a one-month extension of time and payment of the petition fee, the present response is considered timely filed.

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 submitted on 07 November 2003 was executed by Inge Bayer as heir to the deceased inventor, Ernst Bayer. However, neither the filed declaration nor the "Response to Notice of Missing Requirements" states that Mrs. Bayer is the sole heir to the estate, thus their may be other heirs who are required to execute the declaration. In addition, the filed declaration does not satisfy the requirements under 37 CFR 1.497(b). Specifically, the oath or declaration must provide the citizenship, residence, and mailing address of both the deceased inventor and the signing heir(s). The declaration filed on 07 November 2003 provides the residence, citizenship, and post office address for only one individual and it is unclear whether this information is for the heir or the deceased inventor. Accordingly, the declaration is not in compliance with 37 CFR 1.497(b). Should it be determined that Mrs. Bayer is the sole heir, applicant is required to provide a statement that the declaration has been executed by all of the heirs of the deceased inventor and that a legal representative has not been appointed nor is statutorily required to be appointed.

CONCLUSION

Applicants' petition under 37 CFR 1.42 is **DISMISSED, without prejudice**.

Applicants are 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).

BEST AVAILABLE COPY

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

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03 SEP 2004

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#10

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David R. Burns
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28 State Street
Boston, MA 02109

In re Application of BAYER, et al. Application No.: 10/381,869 PUT No.: PCT/EP01/11258 Int. Filing Date: 28 September 2001 Priority Date: 28 September 2000 Attorney Docket No.: AKI-0004US For: OLIGONUCLEOTIDES, AGENTS CONTAINING THESE OLIGO-NUCLEOTIDES, AND THE USE THEREOF	DECISION ON SECOND RENEWED PETITION UNDER 37 CFR 1.42

This decision is in response to the applicant's second renewed petition under 1.42 filed 24 August 2004 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 25 June 2004, applicant was mailed a decision refusing applicant's renewed request for status pursuant to 37 CFR 1.42 as the filed declaration did not comply with 37 CFR 1.497 (a)-(b). Applicant was afforded two months to file a proper response.

On 24 August 2004, applicant filed the present second renewed petition accompanied by a newly executed declaration.

DISCUSSION

Pursuant to 37 CFR 1.42, first sentence:

"In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain a patent."

Applicant's original request for status under 37 CFR 1.42 was dismissed as the filed declaration did not comply with 37 CFR 1.497 (a)-(b). Applicant has presently provided a signed declaration from the sole heir, Inge Bayer providing her residence, post office and citizenship

information.

As such, it is proper to grant applicant's renewed petition at this time.

CONCLUSION

Applicant's second renewed request for status under 37 CFR 1.42 is **GRANTED**.

This application will be given an international application filing date of 28 September 2001 and a date of **24 August 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
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LAHIVE & COCKFIELD, LLP
FLOOR 30, SUITE 3000
ONE POST OFFICE SQUARE
BOSTON, MA 02109

Mail Date: 05/04/2010

Applicant	: Ernst Bayer	: DECISION ON REQUEST FOR
Patent Number	: 7608705	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/381,869	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/24/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **822** 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.

03 DEC 2003

#6

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Gerald Levy
Pitney, Hardin, Kipp & Szuch LLP
685 Third Avenue
New York, NY 10017-4014

In re Application of	:	
RINGTVED et al.	:	
U.S. Application No.: 10/381,872	:	
PCT No.: PCT/DK01/00617	:	DECISION ON PETITION
Int. Filing Date: 27 September 2001	:	UNDER 37 CFR 1.47(a)
Priority Date: 28 September 2000	:	
Attorney Docket No.: 2423-23	:	
For: A TARGET PIGEON AND A METHOD OF LAUNCHING SUCH A TARGET PIGEON	:	

This is a decision on applicants' "Petition under 37 CFR 1.47(a)" filed 27 October 2003 to accept the application without the signature of joint-inventor, Svend-Erik Ringtved. The required petition fee of $130.00 has been submitted.

BACKGROUND

On 27 September 2001, applicants filed international application PCT/DK01/00617 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 04 April 2002. 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 28 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 preliminary amendment.

On 28 May 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. The notification set a two-month time limit in which to respond.

On 27 October 2003, applicants filed a 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(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and behalf of the non-signing joint inventor. Items (1), (3) and(4) have been satisfied.

Regarding item (2) above, petitioner states that Svend-Erik Ringtved has refused to sign the application. Section 409.03(d) of the Manual of Patent Examining Procedure (M.P.E.P.), **Proof of Unavailability or Refusal**, states, in part:

> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Proof that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient. When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal.
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition.

A review of the present petition and the accompanying papers reveal that applicant 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, including the specification, claims, and drawings to Svend-Erik Ringtved. Petitioner states that "Svend-Erik Ringtved was forwarded the required documents for signature," however, the declarant (Mette Moller Nielsen) fails to specify what application papers were sent to the nonsigning inventor. Was

a complete application (specification, claims, and drawings) mailed to the nonsigning inventor?

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 Svend-Erik Ringtved, 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.

For the reasons stated above, it would not be appropriate to accept the application without the signature of Svend-Erik Ringtved under 37 CFR 1.47(a) at this time.

CONCLUSION

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

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

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

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31 MAR 2004

#8

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New York, NY 10017-4014

In re Application of	:	
RINGTVED et al.	:	
U.S. Application No.: 10/381,872	:	
PCT No.: PCT/DK01/00617	:	DECISION ON PETITION
Int. Filing Date: 27 September 2001	:	UNDER 37 CFR 1.47(a)
Priority Date: 28 September 2000	:	
Attorney Docket No.: 2423-23	:	
For: A TARGET PIGEON AND A METHOD OF LAUNCHING SUCH A TARGET PIGEON	:	

This decision is a response to applicants' "Supplemental Submission for Petition under Rule 47(a)" which is being treated as a Renewed Petition under 37 CFR 1.47(a) filed 23 January 2004 to accept the application without the signature of joint-inventor, Svend-Erik Ringtved.

BACKGROUND

On 27 September 2001, applicants filed international application PCT/DK01/00617 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 04 April 2002. 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 28 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 preliminary amendment.

On 28 May 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. The notification set a two-month time limit in which to respond.

On 27 October 2003, applicants filed a Petition under 37 CFR 1.47(a). In a decision dated 03 December 2003, applicants' petition under 37 CFR 1.47(a) was dismissed without prejudice.

On 23 January 2004, 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) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and behalf of the non-signing joint inventor. Items (1), (3) and(4) have been satisfied.

A review of the present petition and the accompanying papers reveal that applicants have satisfied item (2), in that the applicant has shown that a bona fide attempt was made to present the application papers, including the specification, claims, and drawings to Svend-Erik Ringtved. The steps taken by Mette Molle Nielsen are sufficient to show that Svend-Erik Ringtved has refused to execute the application.

Accordingly, it is appropriate to accord the national stage application status under 37 CFR 1.47(a).

CONCLUSION

The renewed petition under 37 CFR 1.47(a) is **GRANTED**.

The application will be given an international filing date of 27 September 2001 under 35 U.S.C. 363, and a date of **27 October 2003** under 35 U.S.C. 371(c).

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the 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
Attorney-Advisor
Office of PCT Legal Administration
Tel.: 703-308-6314
Fax: 703-308-6459

31 MAR 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

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Svvend-Erik Ringtved
Vejilby Vaenge 101
8240 Risskov
Denmark

In re Application of
RINGTVED et al.
U.S. Application No.: 10/381,872
PCT No.: PCT/DK01/00617
Int. Filing Date: 27 September 2001
Priority Date: 28 September 2000
Attorney Docket No.: 2423-23
For: A TARGET PIGEON AND A METHOD OF LAUNCHING SUCH A TARGET PIGEON

Dear Mr. Ringtved:

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

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.497.

Anthony Smith

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Counsel of Record:
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JUN 08 2009

OFFICE OF PETITIONS

CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON MA 02110

In re Patent No. 7,419,670 :
Issued: September 2, 2008 :
Application No. 10/381,875 : PATENT TERM ADJUSTMENT
Filed: August 19, 2003 :
Dkt. No.: 50082/031002 :

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R § 1.705", filed October 31, 2008. This matter is being properly treated as an application for patent term adjustment pursuant to 37 CFR 1.705(d).

The request for reconsideration of patent term adjustment (PTA) is **DISMISSED**.

The above-identified application matured into U.S. Pat. No. 7,419,670 on September 2, 2008. The patent issued with a PTA 100 days. The request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent. See, 37 CFR 1.705(d). Patentees request that the patent term adjustment be increased from 100 days to 193 days.

Patentees request reconsideration of the patent term adjustment based on the decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees contend that pursuant to Wyeth, a PTO delay under 35 U.S.C. 154(b)(1)(A) overlaps with a delay under 35 U.S.C. 154(b)(1)(B) only if the delays occur on the same day.

Patentees maintain that the period of adjustment due to the three year delay by the Office, pursuant to 37 CFR 1.702(b), of 93 days and the period of adjustment due to examination delay, pursuant to 37 CFR 1.702(a), of 295 days do not overlap as these periods do not occur on the same day. The 93-day period is calculated based on the application having been filed under 35 U.S.C. 111(a) on August 19, 2003 and a request for continued examination having been filed on November 20, 2006. Patentees assert that in addition to this 93-day period, they are entitled

to a period of adjustment due to examination delay pursuant to 37 CFR 1.702(a) of 295 days.

Under 37 CFR 1.703(f), patentees are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR 1.702 reduced by the period of time equal to the period of time during which patentees failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR 1.704. In other words, patentees are entitled to the period of Office delay reduced by the period of applicant delay.

Patentees do not dispute that the total period of Office delay is the sum of the period of three years delay and the period of examination delay, to the extent that these periods of delay are not overlapping. However, in effect, patentees contend that no portion of the three year delay period overlaps with the period of examination delay. Accordingly, patentees submit that the total period of adjustment for Office delay is 388 days (the sum of the period of three year delay (93 days) and the period of examination delay (295 days), reduced by zero days of overlap. As such, patentees assert entitlement to a patent term adjustment of 193 days (295 days *plus* 93 days *less* zero days of overlap *less* 195 days of applicant delay).

The Office asserts that as of the time of submission of the request for continued examination on November 20, 2006, the application was pending three years and 236 days.

The period of adjustment under 37 CFR 1.702(b) is based on the application's "commencement date" of March 29, 2003. Accordingly, the period of adjustment under 37 CFR 1.702(b) is 236 days. The adjustment commenced March 30, 2006, the day after the date that is 3 years from application's "commencement date," and ended November 20, 2006, the date that the request for continued examination was filed. See, 37 CFR 1.703(b).

The Office agrees that certain action was not taken within a specified time frame, and, thus, the entry of a period of adjustment of 295 days is correct. At issue is whether patentees should accrue an additional 236 days of patent term adjustment for the Office taking in excess of three years to issue the patent as well as 295 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that 236 days overlap. Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> To the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

Likewise, 35 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in § 1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A), 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule, 65 Fed. Reg. 56366

> (Sept. 18, 2000). See, also, Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See, also, Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A), 69 Fed. Reg. 34283 (June 21, 2004).

The current wording of § 1.703(f) was revised in response to the misinterpretation of this provision by a number of Patentees. The rule was slightly revised to more closely track the corresponding language of 35 U.S.C. 154(b)(2)(A). The relevant portion differs only to the extent that the statute refers back to provisions of the statute whereas the rule refers back to sections of the rule. This was not a substantive change to the rule nor did it reflect a change of the Office's interpretation of 35 U.S.C. 154(b)(2)(A). As stated in the Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A), the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding § 1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed. The grounds specified in these sections cover the A) guarantee of prompt Patent and Trademark Office responses, B) guarantee of no more than 3-year application pendency, and C) guarantee or adjustments for delays due to interference, secrecy orders and appeals. A section by section analysis of 35 U.S.C. 154(b)(2)(A) specifically provides that:

> Section 4402 imposes limitations on restoration of term. In general, pursuant to [35 U.S.C.] 154(b)(2)(A)-(C), total adjustments granted for restorations under [35 U.S.C.

> 154](b)(1) are reduced as follows: (1) To the extent that there are multiple grounds for extending the term of a patent that may exist simultaneously (e.g., delay due to a secrecy order under [35 U.S.C.] 181 and administrative delay under [35 U.S.C.] 154(b)(1)(A)), the term should not be extended for each ground of delay but only for the actual number of days that the issuance of a patent was delayed; See, 145 Cong. Rec. S14,718[1].

As such, the period for over three-year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed overlap with the actual dates in the periods for failure of the Office to take action within specified time frames. In other words, consideration of the overlap does not begin three years after the filing date of the application.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the entire period during which the application was pending before the Office, August 19, 2003, to the date that the request for continued examination was filed on November 20, 2006. Prior to the issuance of the patent, 295 days of patent term adjustment were accorded for the Office failing to respond within a specified time frame during the pendency of the application.

The application actually issued three years and 888 days after its filing date; however, over three year time ceased accruing at 236 days on November 20, 2006 upon submission of a request for continued examination. The Office did not delay 295 days and then delay an additional 236 days. Accordingly, 295 days of patent term adjustment (not 295 days and 236 days) was properly entered because the entire period of delay of 236 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 295 days attributable to grounds specified in § 1.702(a)(1). Entry of both periods is not warranted.

In view thereof, no adjustment to the patent term will be made.

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[1] The AIPA is title IV of the Intellectual Property and Communications Omnibus Reform Act of 1999 (S. 1948), which was incorporated and enacted as law as part of Pub. L. 106-113. The Conference Report for H.R. 3194, 106th Cong. 1st Sess. (1999), which resulted in Pub. L. 106-113, does not contain any discussion (other than the incorporated language) of S. 1948. A section-by-section analysis of S. 1948, however, was printed in the Congressional Record at the request of Senator Lott, See 145 Cong. Rec. S14,708-26 (1999)(daily ed. Nov. 17, 1999).

The Office acknowledges submission of the required application fee of $200.00. See, 37 CFR 1.18(e).

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

19 AUG 2003

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In re Application of	:	
Forzano, et al.	:	
Application Serial No.: 10/381,877	:	
PCT No.: PCT/EP00/11919	:	DECISION ON PETITION
Intl. Filing Date: 29 November 2000	:	UNDER 37 CFR 1.137(b)
Priority Date: 13 December 1999	:	
Attorney's Docket No. KARAGHIOSOFF	:	
For: Multilayer Plastic Sheeting for Mulching and/or	:	
as a Barrier for a Soil Treating Agents	:	

This decision is in response to applicants' "PETITION TO REVIVE ABANDONED APPLICATION UNDER 37 CFR 1.137(b)", filed 31 March 2003.

BACKGROUND

On 29 November 2000, applicants filed International Application PCT/EP00/11919 which claimed priority to an earlier Italian application filed on 13 December 1999. A demand for international preliminary examination, in which the United States was elected, was filed on 5 July 2001, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty month period for paying the basic national fee expired on at midnight on 13 July 2002.

On 31 March 2003, applicants filed the instant petition and national stage papers in the United States including, inter alia, a transmittal letter stating that the application was being filed under 35 U.S.C. 371, a copy of the international application, a translation of the international application, the oath or declaration for the named inventors, and a first preliminary amendment, a Power of Attorney or Authorization of Agent, and a statement under 37 CFR 3.73(b). Applicant also remitted the basic national fee and authorized any additional amounts to be charged to deposit account 02-3704.

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that the application be revived on the grounds of unintentional delay must be filed promptly after applicant becomes aware of the abandonment and must be accompanied by: (1) the required reply, unless previously filed, (2) the petition fee required by law, (3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional and (4) a terminal disclaimer (for applications filed before 8 June 1995).

As to item (1), the petition was accompanied by the required reply in the form of a check for payment of the U.S. Basic National Fee.

As to item (2), the petition is accompanied by the required petition fee.

As to item (3), the petition is accompanied by applicants' statement that 'the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional."

As to item (4), a terminal disclaimer is not required in the present case.

CONCLUSION

The request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

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

The additional $65.00 surcharge (for filing the oath or declaration after thirty months from thge priority date) will be charged to deposit account 02-3704.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT

Operations to continue national stage processing of the present application, including according the present application a 35 USC 371 (c) date of 31 March 2003.

Boris Milef
PCT Legal Examiner
PCT Legal Office

Kenya A. McLaughlin
PCT Legal Office Detailee
PCT Legal Office

Telephone: (703) 305-0010
Facsimile: (703) 308-6459

29 DEC 2003

#6

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In re Application of MIRKIN et al. Application No.: 10/381,893 PCT No.: PCT/US01/50958 Int. Filing: 19 October 2001 Priority Date: 20 October 2000 Attorney Docket No.: 4183-10-PUS For: NANOLITHOGRAPHY METHODS AND PRODUCTS THEREFOR AND PRODUCED THEREBY	DECISION ON PETITION UNDER 37 CFR 1.47(a)

This is a decision on applicant's "Petition under 37 CFR 1.47(a)" filed in the United States Patent and Trademark Office (USPTO) on 24 November 2003. Applicant also requests a four month extension of time, which is granted.

BACKGROUND

On 24 November 2003, in response to the 22 May 2003 Notification of Missing Requirements, applicants filed a petition under 37 CFR 1.47(a) in an attempt to satisfy the requirements of 35 U.S.C. 371(c)(4). The petition requested the acceptance of the application without the signature of inventor, Peter V. Schwartz, on the grounds that the nonsigning inventor refuses to execute the application.

DISCUSSION

A petition under 37 CFR §1.47(a) must be accompanied by (1) the fee under 37 CFR §1.17(h), (2) factual proof that the non-signing joint inventor(s) refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the non-signing inventor(s), and (4) an oath or declaration by each available joint inventor on his or her own behalf and on behalf of the non-signing joint inventor(s).

Applicant satisfied Items (1) and (3) above.

With respect to item (2), Applicant filed the statement of Peter Schwartz, the uncooperative inventor, indicating his refusal to sign the declaration on the basis that he is the sole inventor.

With respect to item (4), the declaration submitted contains two identical supplemental pages; one page signed by inventor James Storhoff and another identical page signed by inventor So-Jung Park. Each page is signed by different inventors. Thus, the declaration is not properly executed. It appears that the attorney pieced together two separate complete declarations into one composite declaration or that the inventors were presented with an incomplete declaration. What is required is one declaration where all inventors have signed or two separate complete declarations. Thus, the requirements of 37 CFR 1.497 have not been met and the declaration is

unacceptable.

CONCLUSION

Petitioner has not yet satisfied the requirements of 37 CFR 1.47(a). Accordingly, it is inappropriate to accord the national stage application status under 37 CFR §1.47(a) at this time. The petition under 37 CFR §1.47(a) is **DISMISSED WITHOUT PREJUDICE.**

The declaration filed on 24 November 2003 is deemed responsive to the Notification of Missing Requirements but is unacceptable as filed. What is required is one declaration where all inventors have signed or two separate complete declarations in compliance with 37 CFR 1.497. Applicant is required to correct the above-noted defects including the furnishing of an oath/declaration in compliance with 1.497 within **TWO (2) MONTHS** from the mail date of this Decision.

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of the letter marked to the attention of the PCT Legal Office.

The application will be held in the PCT Legal Office to await applicant's response.

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (703) 306-5467

24 FEB 2004

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PETER V. SCHWARTZ
1441 IRIS STREET
SAN LUIS OBISPO, CA 93401

In re Application of MIRKIN et al. Application No.: 10/381,893 PCT No.: PCT/US01/50958 Int. Filing: 19 October 2001 Priority Date: 20 October 2000 Attorney Docket No.: 4183-10-PUS For: NANOLITHOGRAPHY METHODS AND PRODUCTS THEREFOR AND PRODUCED THEREBY	DECISION ON RENEWED PETITION UNDER 37 CFR 1.47(a)

Dear Mr. Schwartz:

You are named as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. § 116. Should a patent be granted, you will be designated as an inventor.

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

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24 FEB 2004

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In re Application of MIRKIN et al. Application No.: 10/381,893 PCT No.: PCT/US01/50958 Int. Filing: 19 October 2001 Priority Date: 20 October 2000 Attorney Docket No.: 4183-10-PUS For: NANOLITHOGRAPHY METHODS AND PRODUCTS THEREFOR AND PRODUCED THEREBY	DECISION ON RENEWED PETITION UNDER 37 CFR 1.47(a)

This is a decision on applicant's Response to Decision on Petition under 37 CFR 1.47(a) filed in the United States Patent and Trademark Office (USPTO) on 02 February 2004.

BACKGROUND

On 24 November 2003, in response to the 22 May 2003 Notification of Missing Requirements, applicants filed a petition under 37 CFR 1.47(a) in an attempt to satisfy the requirements of 35 U.S.C. 371(c)(4). The petition requested the acceptance of the application without the signature of inventor, Peter V. Schwartz, on the grounds that the nonsigning inventor refuses to execute the application.

On 29 December 2003, a decision dismissing applicant's petition was mailed indicating that the declaration submitted was unacceptable because it contained two identical supplemental pages; one page signed by inventor James Storhoff and another identical page signed by inventor So-Jung Park.

On 02 February 2004, applicant filed a response to the Decision along with three executed declarations.

DISCUSSION

A petition under 37 CFR §1.47(a) must be accompanied by (1) the fee under 37 CFR §1.17(h), (2) factual proof that the non-signing joint inventor(s) refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the non-signing inventor(s), and (4) an oath or declaration by each available joint inventor on his or her own behalf and on behalf of the non-signing joint inventor(s).

Applicant previously satisfied Items (1), (2) and (3) above.

With respect to item (4), applicant has now submitted three complete declarations executed by the respective inventors. The requirements of 37 CFR 1.497 have now been met and

the declaration is acceptable.

CONCLUSION

Petitioner has satisfied the requirements of 37 CFR 1.47(a). Accordingly, it is appropriate to accord the national stage application status under 37 CFR §1.47(a) at this time. The petition under 37 CFR §1.47(a) is **GRANTED.**

The U.S. Designated/Elected Office is authorized to accept the application as a 37 CFR 1.47(a) application using the declaration filed 02 February 2004. The application has an international filing date of 19 October 2001 under 35 U.S.C. 363, and a date of 02 February 2004 under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

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

The application is being returned to the Publications Branch for processing.

Cynthia M. Kratz

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Attorney Advisor
PCT Legal Office

Telephone: (703) 306-5467

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DIW Jul-08

BELL, BOYD & LLOYD LLP
P.O. Box 1135
CHICAGO IL 60690

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JUL 30 2008

In re Application of	:	
Baur et al.	:	
Application Number: 10/381911	:	DECISION ON PETITION
Filing Date: 08/12/2003	:	
Attorney Docket Number: 112843-052	:	

This is a decision on the petition filed on June 3, 2008, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on November 28, 2007, for failure to timely reply to the non-final Office action mailed on August 27, 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 9, 2008.

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

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

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

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

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

The subject petition is accompanied by an amendment as the required reply.

The application is referred to Technology Center Art Unit 1645 for further processing.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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OCT 2 6 2006

OFFICE OF PETITIONS

In re Application of :
Adelshin :
Application No. 10/381,918 : ON PETITION
Filed: July 24, 2003 :
Attorney Docket No. N/A :
For: OPERATING MODE FOR INTERNAL COMBUSTION ENGINE "ADELSHIN AGGREGATE PHASE THERMODYNAMIC CYCLE FOR INTERNAL COMBUSTION ENGINE" AND ENGINE, OPERATING WITH SAID CYCLE

This is a decision on the correspondence filed on September 21, 2006, which is being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment in the above-identfied application.

The constructive petition under 37 CFR 1.181 is **DISMISSED**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. This is **not** final agency action within the meaning of 5 U.S.C. § 704. There is no need to submit another petition fee.

The petition is dismissed and the merits of the petition will not be addressed because the correspondence is not signed by a proper party.

37 CFR 1.33(b) states that any amendments and other papers filed in an application must be signed by (1) an appointed registered attorney or agent; (2) a registered attorney or agent not appointed, but acting in a representative capacity, (3) an assignee under 3.71(b); or (4) all of the named inventors.

The petition is signed by Almir Adelhin. Almir Adelshin has not provided an attorney/agent registration number. Almir Adelshin has not shown that he is an authorized representative of an assignee who has right to take action. Almir Adelshin is only one of two joint inventors.

In short, Almir Adelshin has not established that he is permitted to file amendments and other papers in this application on his own.

In any reconsideration petition, petitioner is encouraged to either (a) submit Almir Adelshin's registration number; (b) if there is an assignee, submit an appropriate 3.73(b) statement on behalf of the assignee establishing ownership of the invention, signed by a person authorized to act on behalf of the assignee (the person authorized to act on behalf of the assignee should be Almir Adelshin and in this manner, the signature on instant petition will be ratified); (c) submit another copy of the petition signed by both joint inventors; or **(d) submit another power of attorney signed by both joint inventors, giving Almir Adelshin power of attorney**.

Sometimes in a joint application one of the coinventors gives to the other the power of attorney in the application. Such power will be recognized even though the one to whom it is given is not registered. See 37 CFR 1.32(c)(1).

Option (d) above is recommended because it will ratify the prosecution to date.

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

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

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

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

Telephone inquiries 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

GARY C. COHN, PLLC
1147 NORTH FOURTH STREET
UNIT 6E
PHILADELPHIA PA 19123

COPY MAILED

MAR 3 0 2007

OFFICE OF PETITIONS

In re Application of :
Adelshin, et al. :
Application No. 10/381,918 :
Filed: July 24, 2003 :
Attorney Docket No. N/A :
For: OPERATING MODE FOR INTERNAL COMBUSTION ENGINE "ADELSHIN AGGREGATE PHASE THERMODYNAMIC CYCLE FOR INTERNAL COMBUSTION ENGINE" AND ENGINE, OPERATING WITH SAID CYCLE

ON PETITION

This is a decision on the petition under 37 CFR 1.181, filed February 26, 2007, requesting that the Office withdraw the holding of abandonment of the above-identified application.

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

As a preliminary matter, the power of attorney and change of correspondence address filed with the present petition has been entered and made of record. All future correspondence will be mailed to the above-noted address.

This application was held abandoned for failure to respond in a proper manner to the non-final Office action, mailed January 6, 2006, which set forth an extendable three (3) month period for reply. According to the Notice of Abandonment, mailed on August 29, 2006, the Office contended that this application became abandoned because the May 15, 2006 reply to the April 17, 2006 Notice of Non-Compliant Amendment was not acceptable.

Petitioners request withdrawal of the holding of abandonment based on the assertion that a timely reply to the second Notice of Non-Compliant Amendment, mailed July 20, 2006, was filed on August 21, 2006 (certificate of mailing date August 15, 2006). Therefore, petitioners argue that they timely responded to all Office actions and the application is not abandoned.

As petitioners point out, the July 20, 2006 Notice of Non-Compliant Amendment set a one month or thirty day (whichever was longer) period for reply. Therefore, the August 21, 2006 (certificate of mailing date August 15, 2006) amendment was timely filed. It is present in the application file.

The petition under 37 CFR 1.181 is **granted**, the holding of abandonment is withdrawn, and the August 29, 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. 3747 for consideration of the amendment filed on August 21, 2006 (certificate of mailing date August 15, 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

ASTRA ZENECA PHARMACEUTICALS LP
GLOBAL INTELLECTUAL PROPERTY
1800 CONCORD PIKE
WILMINGTON DE 19850-5437

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JUL 0 5 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of
Dean Gordon Brown et al.
Application No. 10/381,922
Filed: September 8, 2003
Atty Docket No. 100160-IP US

This is a decision on the petition filed May 26, 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 May 24, 2005 for failure to timely pay the issue fee on or before May 23, 2005. This petition and this decision precede the mailing of the Notice of Abandonment.

The payment of the issue fee, publication fee and petition fee, in accordance with 37 CFR 1.18, is acknowledged. All other requirements of 37 CFR 1.137(b) having now been met, this application file is being forwarded to the Publishing Division to be processed into a patent.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

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

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

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

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

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

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

LADAS & PARRY LLP
26 WEST 61ST STREET
NEW YORK, NY 10023

Mail Date: 04/20/2010

Applicant	: Elena Ionascu	: DECISION ON REQUEST FOR
Patent Number	: 7604822	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/381,924	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/28/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1574** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

08 SEP 2003

Bradley W. Crawford
MCDONNELL BOEHNEN HULBERT &
BERGHOFF
300 South Wacker Drive, Suite 3200
Chicago, Illinois 60606

In re Application of	:	DECISION ON
Hoess et al	:	
Application No.: 10/381,941	:	
PCT No.: PCT/EP01/11101	:	PETITION UNDER
Int. Filing Date: 26 September 2001	:	
Priority Date: 29 September 2000	:	
Attorney's Docket No.: 03-241	:	37 CFR 1.137(b)
For: Conjugates Of Defined Stoichiometry	:	

This decision is in response to applicants' "Petition To Revive Unintentionally Abandoned Application" faxed on 09 July 2003. Petitioners have been charged $2,200 ($900 basic national fee) and $1,300 (petition fee)) to Deposit Account No.: 13-2490.

BACKGROUND

On 26 September 2001, this international application was filed, claiming an earliest priority date of 29 September 2000.

A Demand electing the United States was filed in this international application on 01 March 2002. 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 29 March 2003.

On 28 March 2003, applicants filed a Transmittal letter for entry into the national stage in the United States. However it was not accompanied by basic national fee.

On 20 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 applicant had failed to provide the full U.S. Basic National Fee by 30 months. Accordingly, the application was abandoned.

On 09 July 2003, applicant faxed in the United States Patent and Trademark Office (PTO) the instant petition, accompanied by, *inter alia*, an authorization to charge U.S. Deposit Account 13-2490 the basic national fee and the petition fee.

09/09/2003 SMAJARNO 00000079 132490 10381941
02 FC:1453 1300.00 DA

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.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office

Telephone: (703) 308-6312
Facsimile: (703) 308-6459

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ALEXANDRIA, VA 22313-1450
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27 AUG 2003

McDonnell Boehnen Hulbert & Berghoff
300 South Wacker Drive
Suite 3200
Chicago, IL 60606

In re Application of	:	
Andres, et al.	:	
Application Serial No.: 10/381,944	:	
PCT No.: PCT/EP01/11118	:	DECISION ON PETITION
Intl. Filing Date: 26 September 2001	:	UNDER 37 CFR 1.137(b)
Priority Date: 29 September 2000	:	
Attorney's Docket No. 03-242	:	
For: Compounds with a Branched Linker	:	

This decision is in response to applicants' "PETITION TO REVIVE ABANDONED APPLICATION UNDER 37 CFR 1.137(b)", filed 9 July 2003.

BACKGROUND

On 26 September 2001, applicants filed International Application PCT/EP01/11118 which claimed priority to an earlier application filed on 29 September 2000. A demand for international preliminary examination, in which the United States was elected, was filed on 1 March 2002, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty month period for paying the basic national fee expired on at midnight on 29 March 2003.

On 28 March 2003, applicants filed a submission under 35 USC 371 to enter the United States national phase. The basic national fee was not submitted. On 10 June 2003, a Notification of Abandonment was mailed to applicants.

On 9 July 2003, applicants filed the instant petition, a copy of the Notification of Abandonment, and an authorization to charge deposit account 13-2490.

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that the application be revived on the grounds of unintentional delay must be filed promptly after applicant becomes aware of the abandonment and must be accompanied by: (1) the required reply, unless previously filed, (2) the petition fee required by law, (3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional and (4) a terminal disclaimer (for applications filed before 8 June 1995).

As to item (1), the petition was accompanied by the required reply in the form of an authorization to charge deposit account 13-2490 for the U.S. Basic National Fee.

As to item (2), the petition is accompanied by the required petition fee.

As to item (3), 37 CFR 1.137(b) requires applicant to make a statement that "the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional." Although the aforementioned statement was not made in the petition, the statement made by applicant as to the delay in filing the instant petition is being interpreted to have the same meaning as the statement required by 37 CFR 1.137(b). Applicant must contact the Office immediately if this interpretation is incorrect.

As to item (4), a terminal disclaimer is not required in the present case.

CONCLUSION

The request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

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

This application is being forwarded to the National Stage Processing Branch of the International Division to continue national stage processing of the present application, including preparation and mailing of the Notification of Missing Requirement Under 35 USC 371 requiring an oath or declaration as required by 35 USC 371(c)(4) and the surcharge for filing the oath or declaration later than thirty months from the priority date as required by 37 CFR 1.492(e).

Boris Milef
PCT Legal Examiner
PCT Legal Office

Kenya A. McLaughlin
PCT Legal Office Detailee
PCT Legal Office

Telephone: (703) 305-0010
Facsimile: (703) 308-6459

09 SEP 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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.: 10/381,945	:	
PCT No.: PCT/EP01/11273	:	DECISION
Int. Filing Date: 28 September 2001	:	
Priority Date: 29 September 2000	:	
Attorney's Docket No.: 637.0026USQ	:	
For: ILLUMINATION SYSTEM PARTICULARLY	:	
FOR MICROLITHOGRAPHY	:	

This decision is in response to applicants' "REQUEST FOR CORRECTED FILING RECEIPT" filed 19 July 2004 and applicants' communication filed via facsimile transmission 05 August 2005.

BACKGROUND

On 28 September 2001, applicants filed international application PCT/EP01/11273, 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 19 July 2004, applicants filed a "REQUEST FOR CORRECTED FILING RECEIPT".

On 05 August 2005, applicants filed via facsimile transmission a communication which included a copy of the "REQUEST FOR CORRECTED FILING RECEIPT" submitted 19 July 2004 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/EP01/11273 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

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CHARLES N.J. RUGGIERO
OHLANDT GREELEY RUGGIERO & PERIE
ONE LANDMARK SQUARE, 10TH FLOOR
STAMFORD, CT 06901-2682

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MAY 2 5 2006

OFFICE OF PETITIONS

In re Application of	:	
Antoni Martin et al	:	
Application No. 10/381,945	:	DECISION ON PETITION
Filed: August 7, 2003	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 637.0026USQ	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed October 31, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

The petition is **GRANTED**.

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

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

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

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt

accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

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

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3208. All other inquiries concerning the status of the application should be directed to Patent Publications.

This application is being referred to Patent Publication.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

15 JUN 2004

Martin G. Linihan
HODGSON RUSS LLP
One M & T Plaza
Suite 2000
Buffalo, NY 14203-2391

In re Application of:	:	
Yacov Cohen	:	
Application No.: 10/381,946	:	DECISION
PCT Application No.: PCT/IL2001/001058	:	
Int. Filing Date: 15 November 2001	:	ON PETITION
Atty. Docket No.: MGL/308	:	
Priority Date: 28 June 2001	:	UNDER 37 CFR 1.181
For: MOISTURE MANAGEMENT DOUBLE FACE	:	
WOVEN FABRIC	:	

This is a decision in response to applicant's letter filed on 11 November 2003. This letter is being treated as a petition under 37 CFR 1.181.

BACKGROUND

On 15 November 2001, applicants filed international application PCT/IL2001/001058, which designated the United States of America (US) and claimed a priority date of 28 June 2000. On 06 October 2002, a Demand for International Preliminary Examination was filed which elected the US Accordingly the 30-month deadline for entry into the US national stage expired at midnight on 28 December 2003.

On 31 March 2003, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by the requisite U.S. Basic national fee.

On 20 June 2003 the United States Designated/Elected Office (DO/EO/US) issued a form PCT/DO/EO/905 (NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US). This form required that an Oath or Declaration of the inventors be filed. The form was incorrectly addressed and was returned to the United States Patent and Trademark Office (USPTO) on 7 July 2003. On 15 July 2003, a courtesy copy of the Form 905 was sent to another law firm in New York City. This document was returned to the United States Patent and Trademark Office (USPTO) on 04 August 2003.

During November of 2003, a status call was made to the PCT Help Desk. At this time, it was determined that both the 20 June 905 and the courtesy copy sent on 15 July 2003 had been sent to the incorrect address. Applicant's attorney then filed the above-mentioned letter .

DISCUSSION

It is clear that neither the June Form 905 nor the courtesy copy sent in July were properly addressed and that neither was received by applicant's attorney.

CONCLUSION

For the reasons discussed above, the Form DO/EO/905 issued on 20 June 2003 is in error and is hereby **VACATED**.

This application will be forwarded to the United States Designated/Elected Office (DO/EO/US) for issuance of a corrected Form DO/EO/905.

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 this letter marked to the attention of the PCT Legal Office.

Leonard Smith
PCT Legal Examiner
PCT Legal Office

Paul A. Bell
PCT Special Programs Examiner
Telephone (703) 308-3543

05 SEP 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

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David R. Preston
David R. Preston & Associates
12625 High Bluff Drive
Suite 205
San Diego, CA 92130

In re Application of	:	
THOMAS, et al.	:	
U.S. Application No.: 10/381,957	:	
PCT No.: PCT/US01/30695	:	DECISION ON PETITION
Int. Filing Date: 01 October 2001	:	
Priority Date: 29 September 2000	:	UNDER 37 CFR 1.137(b)
Attorney Docket No.: NEU-0017.P.1	:	
For: GENE EXPRESSION IN THE CENTRAL	:	
NERVOUS SYSTEM REGULATED BY	:	
NEUROLEPTIC AGENTS	:	

This decision is in response to applicant's "Response to Notification of Defective Response" filed 14 October 2005 in the United States Patent and Trademark Office (USPTO). The response contain a petition to revive pursuant to 37 CFR 1.137(b) discussed herein.

BACKGROUND

On 01 October 2001, applicant filed international application PCT/US01/30695, which claimed priority of an earlier application filed 29 September 2000. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States expired at midnight on 29 March 2003.

On 28 March 2003, applicant filed a transmittal letter for entering the U.S. national stage accompanied by payment of the full, U.S. Basic National Fee.

On 19 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 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. Applicant was afforded two months to file a proper reply.

On 06 October 2003, applicant responded with an executed declaration accompanied by a petition for a two-month extension of time and payment of the extension fee.

07 November 2003, applicant was mailed a NOTIFICATION OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.495 (Form PCT/DO/EO/903) indicating

a 35 U.S.C. 371 date of 06 October 2003.

On 08 July 2004, applicant was mailed a "NOTIFICATION OF DEFECTIVE RESPONSE" (Form PCT/DO/EO/916) informing applicant that the response of 06 October 2003 was acknowledge; however, applicant was informed of the need to provide a copy of a sequence listing in computer readable form. Applicant was afforded one month from the mailing of the Form PCT/DO/EO/916 or within the time remaining in the response set forth in the Form PCT/DO/EO/905, whichever was longer.

On 30 June 2005, applicant was mailed a "Notification of Abandonment" (Form PCT/DO/EO/909) informing applicant that the application was abandoned as to the United States of America for failure to respond to the Form PCT/DO/EO/905 mailed 19 June 2003.

On 14 October 2005, applicant filed the present petition to revive.

DISCUSSION

A petition under 37 CFR 1.137(b) requesting that the application be revived on the grounds of unintentional abandonment 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 pursuant to this paragraph was unintentional" and (4) any terminal disclaimer and fee pursuant to 37 CFR 1.137(c) (where required).

As to item (1), applicant has presently supplied the required reply in the form of a compliant sequence listing.

Regarding item (2), applicant has paid the appropriate petition fee.

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

Item (4) does not apply to the present petition; thus it is proper to grant applicant's petition at this time.

CONCLUSION

For the reasons stated above, applicant's petition to revive under 37 CFR 1.137(b) is **GRANTED**.

This application has an international application filing date of 01 October 2001 and a date

of **06 October 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

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Morrison & Foerster
Suite 500
3811 Valley Center Drive
San Diego, CA 92130-2332

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MAR 21 2007

OFFICE OF PETITIONS

In re Application of	:	
Margot Elisabeth Francoise Schooneveld-Bergmans et al.	:	
Application No. 10/381,958	:	DECISION ON PETITION
Filed: March 28, 2003	:	TO WITHDRAW
Attorney Docket No. 246152019000	:	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 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 Morrison and Foerster has been revoked by the assignee of the patent application on October 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 Terri Williams at 571-272-2991.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Nixon & Vanderhye, PC**
901 North Glebe Rd., 11th Floor
Arlington, VA 22203

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15 WEST SOUTH TEMPLE, SUITE 900
SALT LAKE CITY, UT 8401

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FEB 1 6 2007

OFFICE OF PETITIONS

In re Patent No. 7,040,647 :
Issue Date: May 9, 2006 :
Application No. 10/381,960 : ON PETITION
Filed: August 11, 2003 :
Attorney Docket No. 3390.2.6 :

This is in response to the communication entitled "Request for a Certificate of Correction Under 37 C.F.R. § 1.323," filed July 24, 2006, 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 petition is **GRANTED**.

It is noted that a corrected Certificate of Correction was issued prior to a decision being granted on the request by the deciding official's office. Nevertheless, the granting of this request ratifies the issuance on January 2, 2007 of the Certificate of Correction.

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

Frances Hicks
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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233 S. WACKER DRIVE
SUITE 6300, SEARS TOWER
CHICAGO, IL 60606-6357

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AUG 3 0 2005

OFFICE OF PETITIONS

In re Patent No. 6,845,702	:	
Issue Date: January 25, 2005	:	
Application No. 10/381,966	:	ON PETITION
Filed: June 24, 2003	:	
Attorney Docket No. 19036/39102	:	

This is a decision on the petition under 37 CFR 1.183, filed March 17, 2005, which is being treated as a petition under 37 CFR 3.81(b) [1] to accept the correction of the assignee on the front page of the above-identified patent.

The petition is **granted**.

In view of the granting of this decision, petitioner may request a Certificate of Correction pursuant to the provisions of 37 CFR I.323 and pay the required fee of $IOO. Note MPEP 307.

Petitioner may wish to submit a corrected cover sheet in accordance with 37 CFR 3.34 and MPEP 323.01, since the present assignment as recorded in the USPTO indicates the assignee as "Kabushiki Kaisha Kawasaki Precison Machinery" rather than "Kabushiki Kaisha Kawasaki Precis ion Machinery."

This matter is being referred to Files Repository.

Telephone inquires concerning this matter may be directed to Wan Laymon at (571) 272-3220.

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

[1] *See* Official Gazette of June 22, 2004

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PALO ALTO CA 94304-1050

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MAR 3 1 2008

In re Application of

VOORHEES, Dirk
Application No. 10/381,968
Filed: June 11, 2003
Attorney Docket No. 27413-702

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 February 14, 2008.

The request is **APPROVED**.

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

The request was signed by Brian Dietzel on behalf of all attorneys of record who are associated with customer No. 21971. All attorneys/agents associated with the Customer Number 21971 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 November 14, 2007 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **DIRK VOORHEES**
2000 BAGBY
SUITE 5430
HOUSTON, TX 77002

cc: **LARSON NEW ABEL POLANSKY & WHITE, LLP**
5914 WEST COURTYARD DRIVE
AUSTIN, TX 78730

30 SEP 2003

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Richard L. Myers
22872 Avenida Empresa
Rancho Santa Margarita, CA 92688

In re Application of	:	
AHLBERG, Russell E., et al.	:	
Application No.: 10/381,970	:	DECISION ON
PCT No.: PCT/US01/31160	:	
Int. Filing Date: 04 October 2001	:	PETITION UNDER
Priority Date: 06 October 2000	:	
Attorney Docket No.: AUS-2067-AV	:	37 CFR 1.47(a)
For: MULTIPLE CLIP APPLIER	:	
APPARATUS AND METHOD	:	

This is a decision on applicants' "Response to Notification of Missing Requirements," filed in the United States Patent and Trademark Office (USPTO) on 14 August 2003. It has been treated as a petition under 37 CFR 1.47(a).

10/01/2003 MKAYPAGH 00000253 012215 10381970

02 FC:2617 65.00 DA

BACKGROUND

On 04 October 2001, applicants filed international application PCT/US01/31160. The thirty-month period for paying the basic national fee in the United States expired at midnight on 07 April 2003 (06 April 2003 was a Sunday).

On 28 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 20 June 2003, the Office mailed a Notification of Missing Requirements (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 for late filing of the oath or declaration were required.

On 14 August 2003, applicants submitted the instant petition under 37 CFR 1.47(a).

10/01/2003 MKAYPAGH 00000253 012215 10381970

01 FC:1460 130.00 DA

DISCUSSION

A petition under 37 CFR 1.47 must be accompanied by: (1) the fee under 37 CFR 1.17(h), (2) proof of pertinent facts, namely that the inventor refuses to sign after being presented with the application papers or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, and (4) an oath or declaration by the 37 CFR 1.47(a) applicant on behalf of himself or herself and the nonsigning applicant

Items (1) and (3) have been met. (1) The petition fee will be charged to deposit account 01-2215, as authorized. (3) The petition lists the last known address of non-signing inventor Steven R. Anderson as 24 Silkwood Lane, Las Flores, CA 92668.

Item (2) has not been satisfied. When applicants are unable to locate the inventor after a diligent effort, "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." MPEP §409.03(d). "The statement must be signed where at all possible by a person having firsthand knowledge of the facts recited therein." MPEP §409.03(d). Kenneth Vu's statement is general and does not indicate that he has first hand knowledge of the attempts to contact Mr. Anderson. As such, his statement of facts lacks the requisite first hand knowledge. Additionally, copies of documentary evidence, e.g. internet searches, that support a finding that the inventor could not be located after a diligent effort should be submitted. MPEP §409.03(d).

Item (4) has not been satisfied. Applicants have supplied two different declarations that are both similarly defective. In each case, applicants have supplied one page one of two and two pages two of two for the declaration. Each page two lists the same inventors, but the pages were separately executed. While it is acceptable for inventors to execute different copies of the declaration, applicants must supply the full copy of the declaration executed by each inventor. Applicants may not piece together pages from different declarations to create a composite declaration. It appears at least two copies of the declaration were executed. Applicants must supply complete declarations in compliance with 37 CFR 1.497(a)-(b).

CONCLUSION

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

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to timely file the proper response will result in abandonment of this application. 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 the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Leonard E. Smith
PCT Legal Examiner
PCT Legal Administration

Erin M. Pender
Attorney Advisor
PCT Legal Administration

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Facsimile: (703) 308-6459

24 FEB 2004

#6

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Richard L. Myers
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In re Application of AHLBERG, Russell E., et al. Application No.: 10/381,970 PCT No.: PCT/US01/31160 Int. Filing Date: 04 October 2001 Priority Date: 06 October 2000 Attorney Docket No.: AUS-2067-AV For: MULTIPLE CLIP APPLIER APPARATUS AND METHOD	NOTIFICATION OF A DEFECTIVE RESPONSE

This is a decision on applicants' "Renewed Petition Under 37 CFR 1.47(a)," filed in the United States Patent and Trademark Office (USPTO) on 25 November 2003.

BACKGROUND

On 04 October 2001, applicants filed international application PCT/US01/31160. The thirty-month period for paying the basic national fee in the United States expired at midnight on 07 April 2003 (06 April 2003 was a Sunday).

On 28 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 20 June 2003, the Office mailed a Notification of Missing Requirements (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 for late filing of the oath or declaration were required.

On 14 August 2003, applicants submitted a petition under 37 CFR 1.47(a).

On 30 September 2003, the Office dismissed applicants' petition without prejudice.

On 25 November 2003, applicants submitted the instant renewed petition accompanied by a declaration executed by the formerly non-signing inventor, Steven R. Anderson.

DISCUSSION

Applicants have obtained a signed declaration from the previously non-signing inventor. As such, the petition under 37 CFR 1.47(a) is dismissed as moot.

However, applicants have yet to satisfy the oath or declaration requirement as discussed in the decision mailed 30 September 2003. It indicated that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) was required. Applicants have supplied a declaration executed by the previously non-signing

inventor, but the declarations of the other inventors are defective. Applicants have supplied two different declarations that are both similarly defective. In each case, applicants have supplied one page "1 of 2" and two pages "2 of 2" for the declaration. Each page two lists the same inventors, but the pages were separately executed. While it is acceptable for inventors to execute different copies of the declaration, applicants must supply **the full copy of the declaration executed by each inventor**. Applicants may not piece together pages from different declarations to create a composite declaration. It appears at least two copies of the declaration were executed. Applicants must supply complete declarations in compliance with 37 CFR 1.497(a)-(b).

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.47(a) is **DISMISSED AS MOOT**.

Applicants are required to submit a declaration in compliance with 37 CFR 1.497(a)-(b) within a time limit of **ONE (1) MONTH** from the mail date of this Notification or within the time remaining in the response set forth in the Decision On Petition mailed 30 September 2003, whichever is longer. No extension of this time limit may be granted under 37 CFR 1.136(a), but the period for response set in the Decision On Petition mailed 30 September 2003, may be extended up to a maximum of five months. FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT. Any request for reconsideration of this decision should include a cover letter entitled "Response to Notification of Defective Response."

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.

Leonard E. Smith
PCT Legal Examiner
PCT Legal Administration

Erin M. Pender
Attorney Advisor
PCT Legal Administration

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24 MAR 2004

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Richard L. Myers
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In re Application of	:	
AHLBERG, Russell E., et al.	:	
Application No.: 10/381,970	:	
PCT No.: PCT/US01/31160	:	
Int. Filing Date: 04 October 2001	:	NOTIFICATION
Priority Date: 06 October 2000	:	
Attorney Docket No.: AUS-2067-AV	:	
For: MULTIPLE CLIP APPLIER	:	
APPARATUS AND METHOD	:	

This notification is in response to applicants' "Response to Notification of Defective Response," filed in the United States Patent and Trademark Office (USPTO) on 05 March 2004.

BACKGROUND

On 04 October 2001, applicants filed international application PCT/US01/31160. The thirty-month period for paying the basic national fee in the United States expired at midnight on 07 April 2003 (06 April 2003 was a Sunday).

On 28 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 20 June 2003, the Office mailed a Notification of Missing Requirements (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 for late filing of the oath or declaration were required.

On 14 August 2003, applicants submitted a petition under 37 CFR 1.47(a).

On 30 September 2003, the Office dismissed applicants' petition without prejudice.

On 25 November 2003, applicants submitted a renewed petition accompanied by a declaration executed by the formerly non-signing inventor, Steven R. Anderson.

On 24 February 2004, the Office mailed Notification of a Defective Response, indicating that the petition was dismissed as moot, but that a declaration in compliance with 37 CFR 1.497(a)-(b) was still required.

On 05 March 2004, applicants submitted the instant response.

DISCUSSION

Applicants' declaration submitted 05 March 2004, in combination with the 25 November 2003 declaration, satisfies the requirements on 37 CFR 1.497(a)-(b).

CONCLUSION

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 05 March 2004.

Leonard E. Smith
PCT Legal Examiner
PCT Legal Administration

Erin M. Pender
Attorney Advisor
PCT Legal Administration

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LOS ANGELES, CA 90025-1026

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OFFICE OF PETITIONS

In re Application of	:	
Manfred Johannes Frank	:	
Application No. 10/381,972	:	ON PETITION
Filed: July 17, 2003	:	
Attorney Docket No. 37261P083	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 28, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed February 3, 2005, which set a shortened statutory period for reply of three (3) months. Extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on August 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 a Request for Continued Examination (RCE) filed August 4, 2005; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office action of February 3, 2005 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 3679.

Wan Laymon
Petitions Examiner
Office of Petitions

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29 AUG 2003

Young & Thompson
745 South 23rd Street
Arlington, VA 22202

In re Application of PALOMO COLL	:	
U.S. Application No.: 10/381,978	:	
PCT Application No.: PCT/EP01/11327	:	
Int. Filing Date: 01 October 2001	:	DECISION
Priority Date Claimed: 02 October 2000	:	
Attorney Docket No.: 2503-1053	:	
For: A PROCESS FOR THE PREPARATION OF	:	
PANTOPRAZOLE AND INTERMEDIATES	:	
THEREFOR	:	

This is in response to applicant's "Response to Notification of Missing Requirements" filed 19 August 2003, which is being treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 01 October 2001, applicant filed international application PCT/EP01/11327, which claimed priority of an earlier Spain application filed 02 October 2000. A copy of the international application was communicated to the USPTO from the International Bureau on 11 April 2002. The thirty-month period for paying the basic national fee in the United States expired on 02 April 2003.

On 01 April 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 19 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 19 August 2003, applicant filed the present request for status under 37 CFR 1.42 including an executed declaration.

DISCUSSION

The declaration states that inventor Alberto Palomo Coll is deceased.

37 CFR 1.42 provides, "In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent."

Effective 07 November 2000, 37 CFR 1.497(b)(2) specifies that, where a person making the declaration is the legal representative of a deceased inventor, the declaration shall state the following: (1) the relationship of the person to the inventor, (2) the facts the inventor would have been required to state, upon information and belief, (3) that the person is the legal representative of the deceased inventor, and (4) the citizenship, residence, and mailing address of the legal representative.

The declaration filed 19 August 2003 is in compliance with 37 CFR 1.497.

CONCLUSION

For the reasons above, the request for status under 37 CFR 1.42 is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 01 October 2001, and a date under 35 U.S.C. 371(c) of 19 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: 703-308-6614
Facsimile: 703-308-6459

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

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OFFICE OF PETITIONS

In re Application of	:	
Chang Tae Kim	:	
Patent No. 6,617,543	:	
Issued: December 7, 2004	:	
Application No. 10/381,988	:	
Filed: June 12, 2003	:	ON PETITION
Title of Invention:	:	
SEMICONDUCTOR LIGHT-EMITTING DIODE	:	

This is a decision on the Petition Under 37 CFR 1.182 for Duplicate Letters Patent, filed June 20, 2005.

The Petition is **granted**.

The Publishing Division is directed to issue a duplicate Letters Patent. Any questions concerning issuance of the duplicate Letters Patent should be directed to Krystal Paige at (703) 308-9250.

A copy of this decision is being forwarded to Publishing Division for issuance of a duplicate Letters Patent. The patent file is being forwarded to the Files Repository.

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

Derek L. Woods
Attorney
Office of Petitions

cc: Krystal Paige, South Tower, 8th Floor, Room C-32 (FAX 703-746-4642)

15 NOV 2004

#6

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Richard L. Mayer
Kenyon & Kenyon
One Broadway
New York, New York 10004

In re Application of	:	
TANTEN et al.	:	
Application No.: 10/381,992	:	
PCT No.: PCT/DE01/02066	:	DECISION ON PETITION
Int. Filing Date: 01 July 2001	:	
Priority Date: 06 October 2000	:	
Attorney Docket No.: 10191/2850	:	
For: METHOD AND DEVICE FOR THE ELECTRICAL ZERO BALANCING OF A MICRO MECHANICAL COMPONENT.		

This decision is in response to applicants' "Petition To Withdraw Holding of Abandonment Based on Failure to Notification of Missing Requirements" filed 28 October 2004. No petition fee is required.

BACKGROUND

On 01 July 2001, applicants filed international application PCT/DE01/02066 which claimed a priority date of 06 October 2000. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 11 April 2002. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 05 April 2004.

On 01 April 2003, applicants filed a Transmittal Letter for entry into the national stage accompanied, inter alia, by: the requisite basic national fee; a translation of the international application; and a preliminary amendment.

On 15 July 2003, the United States Designated Office (DO/EO/US) mailed a Notification Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that a signed oath/declaration of the inventors in compliance with 37 CFR 1.497(a) and (b) together with a surcharge payment were required. The notification set a two-month time limit in which to respond.

On 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 28 October 2004, applicant filed the present petition and executed declaration and power of attorney.

DISCUSSION

With regards to applicants' 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 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' petition filed 28 October 2004 satisfies all of the items above. Applicants' counsel attests that the Office action was not received and that a search of the file jacket indicated the Office action was not received. Applicants submitted a copy of the docket record where the non-received office action would have been entered had it been received.

CONCLUSION

Applicants' petition under 37 CFR 1.181 is **GRANTED**.

This application will be given an international filing date of 01 July 2001 and a date of **28 October 2004** 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: (571) 272-3298
Fax: (571) 273-0459

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OFFICE OF PETITIONS

In re Application of :
Hideo Torii et al :
Application No. 10/381,995 : ON PETITION
Filed: March 31, 2003 :
Attorney Docket No. 10873.1173USWO :

This is a decision on the petition filed May 3, 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 March 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]

The correspondence filed on May 3, 2005 is not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Douglas P. Mueller appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. However, if Mr. Mueller desires to receive correspondence regarding this file, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision is being mailed to Mr. Mueller, the petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

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

The Change of Address filed on May 3, 2005 has not been entered since the person signing the instant paper is not an attorney of record. See MPEP 601.03.

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

This matter is being referred to Technology Center AU 2853 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
Office of the Deputy Commissioner
for Patent Examination Policy

cc: HAMRE SCHUMANN MUELLER & LARSON
P.O. BOX 2902-0902
MINNEAPOLIS, MN 55402

22 MAR 2005

#5

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Mark F. Harrington
Harrington & Smith, LLP
4 Research Drive
Shelton, CT 06484-6212

In re Application of	:	
Godefroy et al.	:	
Application No. 10/381,996	:	DECISION ON
PCT No.: PCT/EP01/11334	:	
Int. Filing Date: 01 October 2001	:	PETITION UNDER
Priority Date: 02 October 2000	:	
Atty. Docket No.: 003D.0010.U1(US)	:	37 CFR 1.181
For: Electrical Connector Module With	:	
Housings For Receiving Forwardly-	:	
Inserted Female Contacts	:	

This is in response to the "Petition Under 37 C.F.R. 1.137 MPEP 711.03(c)" filed on 14 December 2004, which is being treated under 37 CFR 1.181.

BACKGROUND

This international application was filed on 01 October 2001, claimed an earliest priority date of 02 October 2000, and designated the U.S. A Demand electing the U.S. was filed prior to the elapse of 19 months from the priority date. The International Bureau transmitted a copy of the published international application to the USPTO on 11 April 2002. The 30 month time period for paying the basic national fee in the United States expired at midnight on 02 April 2003. On 31 March 2003, applicant filed *inter alia* the basic national fee.

On 15 July 2003, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicant, requiring the submission of an executed oath or declaration of the inventors.

On 15 October 2004, a Notification of Abandonment (Form PCT/DO/EO/909) was mailed to applicant, indicating that this international application had become abandoned with respect to the national stage in the U.S. for failure to timely reply to the Notification of Missing Requirements.

DISCUSSION

Counsel requests withdrawal of the holding of abandonment based on alleged non-receipt of the Notification of Missing Requirements mailed on 15 July 2003. As explained in MPEP 711.03(c), and following *Delgar v. Schuyler, 172 USPQ 513 (D.D.C. 1971),* an adequate showing of non-receipt of papers mailed to applicant by the Office must include (1)

a statement by the practitioner that the Office action was not received by the practitioner; (2) a statement attesting that a search of the file jacket and docket records indicates that the Office action was not received; and (3) a copy of the docket record where the non-received Office action would have been entered had it been received (the docket records must also be referenced in petitioner's statement). A review of the totality of evidence now of record establishes that, within the practice under MPEP 711.03(c), petitioner has satisfied requirements (1), (2) and (3).

Petitioner has satisfied requirements (1) and (2) by the statements in numbered paragraph 3 of the petition.

With respect to requirement (3), counsel has provided copies of appropriate docket record pages.

DECISION

The petition is **GRANTED**.

The Notification of Abandonment (Form PCT/DO/EO/909) mailed on 15 October 2004 is hereby **VACATED**.

The $130.00 "petition fee" accompanying the petition is being applied to the $130.00 surcharge under 37 CFR 1.492(e).

This application is being returned to the National Stage Processing Branch for further processing. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **14 December 2004**.

Leonard Smith
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
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

WORKMAN NYDEGGER (F/K/A WORKMAN NYDEGGER & SEELEY)
60 EAST SOUTH TEMPLE
1000 EAGLE GATE TOWER
SALT LAKE CITY UT 84111

COPY MAILED

NOV 1 0 2004

OFFICE OF PETITIONS

In re Application of
Daniel E. Gerbec et al.
Application No. 10/382,010
Filed: March 5, 2003
Attorney Docket No. 13447.9.1
Title: ADJUSTABLE BONE FUSION IMPLANT AND METHOD

DECISION ON PETITION
UNDER 37 C.F.R. §1.28(c)

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

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

Your fee deficiency submission under 37 CFR §1.28 is hereby accepted. The petition is **GRANTED** accordingly.

This file is being forwarded to Technology Center 3700.

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

#8

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

FROM DIRECTORS OFFICE

MAR 29 2005

TECHNOLOGY CENTER 3600

SHAWN HUNTER
4058 Tartan Lane
Houston, TX 77025

In re Application of
Travis Harris
Application No. 10/382,018
Filed: March 05, 2003
For: MOVEABLE SAFETY HANDRAIL SYSTEM

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in reply to the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed in the United States Patent and Trademark Office, on January 25, 2005.

The petition is **GRANTED** in view of the following evidence of timely filing :

☒ Postcard receipt being dated June 3, 2004 .

☐ USPTO return facsimile receipt dated _____ which identifies the application by serial number and the type of Response that was filed on that date.

☐ Certificate of Mailing/Transmission signed on _____ and supported by a statement under 37 C.F.R. 1.8(b)(3).

☐ Hand Delivery Receipt of the specific documents submitted dated _____.

☐ Certificate of Transmission of CPA under 37 C.F.R. 1.6 filed on _____.

☐ Express Mail Receipt under 37 C.F.R. 1.10 dated _____.

This application is being forwarded to the Supervisory Legal Instruments Examiner for entry of the response filed with the petition, then to the examiner for prompt action on the response.

KJD/dgd: 3/23/05

KENNETH J. DORNER
SPECIAL PROGRAMS EXAMINER
TECHNOLOGY CENTER 3600

UNITED STATES 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 26 2006
OFFICE OF PETITIONS

SHAWN HUNTER
P.O. Box 270110
HOUSTON, TX 77277-0110

In re Application of Travis W. Harris Application No. 10/382,018 Filed: March 5, 2003 Attorney Docket No. DIL-1001-US	: : : : :	DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed November 16, 2005.

The request is **APPROVED**.

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

The request was signed by Shawn Hunter on behalf of all attorneys/agents of record who are associated with Customer No. 27447.

All attorneys/agents associated with the Customer No. 27447 have been withdrawn. Therefore, applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the sole inventor, Travis Harris, at the address indicated below.

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

Andrea Smith
Petitions Examiner
Office of Petitions

Conferee:

cc: Travis W. Harris
17623 Cassina
Spring, TX 77388

UNITED STATES 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 17 2004

Paper No. 091404

ASHKAN NAJAFI, P.A.
113 LAMPLIGHTER LANE
PONTE VERDA BEACH, FL 32082

In re Application of:	:	
BASIL MAKHOUL	:	
Serial No.: 10/382,024	:	DECISION ON REQUEST TO WITHDRAW
Filed: March 05, 2003	:	FROM RECORD
Attorney Docket No.: **UP05**	:	

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed August 23, 2004.

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

The request meets all the above stated requirements. The request was signed by Ashkan Najafi, on behalf of himself and all the attorneys/agents of record. There is no outstanding Office action at this time.

The request is **APPROVED**.

There are no attorneys/agents of record at this time.

All future communications from the Office will be directed the inventor, Basil Makhoul, at the below address, until otherwise notified by applicant.

Inquiries related to this decision should be directed to Lissi Marquis at (571) 272-1596.

Lissi Marquis, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: BASIL MAKHOUL
309-6 FITNESS CIRCLE
MELBOURNE, FL 32901

UNITED STATES 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: __

WALTER J. TENCZA JR.
SUITE 3
10 STATION PLACE
METUCHEN NJ 08840

COPY MAILED

JUN 12 2006

OFFICE OF PETITIONS

In re Application of :
Gabriele :
Application No.: 10/382,046 :
Filing Date: 5 March, 2003 :
Attorney Docket No. Gabriele-1 :

DECISION

This is a decision on the petition filed on 18 Novembe,r 2005, to revive the instant application under 37 C.F.R. §1.137(b) as having as abandoned due to unintentional delay.

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

NOTES:

(1) Any petition (and fee) for reconsideration of this decision must be submitted within two (2) months from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.137(b)."

(2) Thereafter, there will be no further reconsideration of this matter.

Further:

Petitioner does not appear to be Counsel of Record or otherwise empowered to prosecute

the instant application. In this connection, Petitioner must file of record the appropriate revocation/power of attorney.

Moreover, the correspondence address of record are different than that shown on the papers submitted herein.

However, Petitioner has submitted no formal change(s) in this regard.

If Petitioner desires to receive future correspondence regarding this application, the appropriate Notice of Change of Address (for correspondence) and Fee Address must be submitted.

A courtesy copy of this decision will be mailed to Petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

BACKGROUND

The record reflects that:

- Petitioner failed to reply to the final Office action mailed on 20 July, 2004, with reply due absent extension of time on or before 20 October, 2004;
- the application went abandoned by operation of law after midnight 20 October, 2004;
- the Office mailed the Notice of Abandonment on 27 January, 2005;
- application was abandoned nearly 13 months and the Notice of Abandonment mailed nearly 10 months before the instant petition was filed;
- with the instant petition (with fee), Petitioner filed only an after-final amendment–which, Petitioner, as one registered to practice before the Office, is not of right, and thus is not a proper reply[1] to a final Office action–as the reply and made a statement of unintentional delay–however, because Petitioner was not of record at the time the application went abandoned, Petitioner is not in a position to make such a statement as to the nature of the delay;
- Petitioner is aware that such representations are, as are all representations by practitioners

[1] A proper reply is a an amendment *prima facie* placing the application in condition for allowance, a Notice of Appeal, or an RCE (with fee and submission). (See: MPEP §711.03(c).)

and applicants before the Office, susceptible to review for compliance with the duty of candor.

(Petitioners always are reminded of the burden of those registered to practice *and* all others who make representations before the Office, *inter alia*, to inquire into the underlying facts of representations made to the Office.[2])

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the

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

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

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—
(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and
(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —
(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;
(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;
(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and
(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.
(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of —
(1) Holding certain facts to have been established;
(2) Returning papers;
(3) Precluding a party from filing a paper, or presenting or contesting an issue;
(4) Imposing a monetary sanction;
(5) Requiring a terminal disclaimer for the period of the delay; or
(6) Terminating the proceedings in the Patent and Trademark Office.
(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).
[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

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]))

Allegations as to
Unintentional Delay

The requirements for a grantable petition under 37 C.F.R. §1.137(b) are the petition and fee, a statement/showing of unintentional delay, a proper reply, and–where appropriate--a terminal disclaimer and fee if the application was filed before 8 June, 1995.

---

[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.

Because Petitioner appears not to have been of record at the time the instant application went abandoned, Petitioner is not able to aver as to the unintentional nature of the abandonment. Further, Petitioner needs detail how delays of 16 months from abandonment and nearly a year from Notice thereof constitutes diligence[9] in attendance to matters that must be considered among one's "most important business" affairs.[10]

To this end, Petitioner further must provide a statement by an attorney of record at the time the application went abandoned and/or the Applicant as to the unintentional nature of that event.

Moreover, Petitioner is reminded that a proper reply[11] to a final Office action is required as the to accompany a petition under 37 C.F.R.§1.137(b)–again, an amendment-after-final is not of right.

Therefore, it appears as of this writing that Petitioner has yet to satisfy the "reply" and "statement" requirements under the regulation.

CONCLUSION

The petition as considered under 37 C.F.R. §1.137(b) is **dismissed**.

Further correspondence with respect to this matter should be addressed as follows:[12]

By mail: Commissioner for Patents[13]
P.O. Box 1450
Alexandria, VA 22313-1450

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[9] 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.

[10] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

[11] A proper reply is a an amendment *prima facie* placing the application in condition for allowance, a Notice of Appeal, or an RCE (with fee and submission). (See: MPEP §711.03(c).)

[12] On July 15, 2005, the Central Facsimile (FAX) Number changed to (571) 273-8300. The number (571) 273-8300 is be the only facsimile number recognized for centralized delivery. (For further information. see: http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/cfax062005.pdf .)

[13] To determine the appropriate addresses for other subject-specific correspondence, refer to the USPTO Web site at www.uspto.gov.

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

cc:
ALLAN CHAN
225 BROADWAY/STE. 700
NEW YORK, NEW YORK 10007

UNITED STATES 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 M. HESLIN
TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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MAY 07 2009

OFFICE OF PETITIONS

In re Application of	:	
Silverberg et al.	:	DECISION ON PETITION
Application No. 10/382,086	:	TO WITHDRAW
Filed: March 4, 2003	:	FROM RECORD
Attorney Docket No. I1026/20090	:	

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 14, 2005.

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

A review of the file record indicates that on January 6, 2006 the power of attorney to Townsend and Townsend and Crew, 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: Caesar, Rivise, Bernstein, Cohen & Pokotilow, LTD.
11th Floor, Seven Penn Center
1635 Market Street
Philadelphia PA 19103-2212

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

EDWARDS & ANGELL, LLP
P.O. BOX 9169
BOSTON, MA 02209

COPY MAILED

JUN 1 9 2003

OFFICE OF PETITIONS

In re Application of
Barclay, et al.
Application No. 10/382,090
Filed: March 4, 2003
Attorney Docket No. 51417(70329)

ON PETITION

This is a decision on the petition under 37 CFR 1.53 filed on May 8, 2003, requesting that the above-identified application be accorded a filing date of March 4, 2003, including page 14 of the specification.

The application was filed on March 4, 2003. However, on April 29, 2003, the Office of Initial Patent Examination (OIPE) mailed a "Notice Of Omitted Item(s)" that stated the application had been accorded a filing date, but page 14 of the specification appears to have been omitted.

In response, on May 8, 2003, the instant petition and a copy of page 14 of the specification were submitted. The papers were accompanied by a copy of applicant's postcard receipt that acknowledges receipt of twenty-nine (29) pages of specification on March 4, 2003. A review of the application file indicates the presence of twenty-eight (28) pages of specification. It is assumed that page 14 of the specification was misplaced by the Office.

In view of the above, the petition is granted.

The $130.00 petition fee, submitted May 8, 2003, will be refunded by treasury check.

This application will be returned to OIPE for further processing with a filing date of March 4, 2003, using the copy of page 14 of the specification, supplied on May 8, 2003.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 306-9200.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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LOVE HAUPTMAN GILMAN & BERNER, LLP
Suite 310
1700 Diagonal Road
Alexandria, VA 22314

NOV 24 2004

In re Application of: Hode et al Application No. 10/382,097 Filed: 03/06/2003 Attorney Docket No. 4590-123	: : : : :	NOTICE OF WITHDRAWAL FROM ISSUE UNDER 37 CFR ∋ 1.313

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

The above-identified application is hereby withdrawn from issue. The Notice of Allowance and Issue Fee Due and the Notice of Allowability mailed September 9, 2004, are hereby vacated.

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

The issue fee is refundable upon request. However, the applicant may wait until the application is either again found allowable or held abandoned. If the application is allowed, upon receipt of a new Notice of Allowance and Issue Fee Due, applicant may request that the previously submitted issue fee be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due. If the application is abandoned, the applicant may request either a refund or a credit to a Deposit Account.

Telephone inquires should be directed to Michael J. Tokar, Supervisory Patent Examiner, at (571) 272-1812.

The above-identified application is being forwarded to the examiner for prompt appropriate action.

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

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

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MAY 0 2 2008

OFFICE OF PETITIONS

In re Application of :

COOPERMAN, et al. :
Application No. 10/382,104 :
Filed: March 5, 2003 :
Attorney Docket No. **1546.018US1** :

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 23, 2007.

The request is **APPROVED.**

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

The request was signed by Suneel Arora 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 or the assignee of the entire interest at the first copied address below until otherwise properly notified by the applicant.

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **MAX COOPERMAN**
233 SUNSET AVENUE
SANTA CRUZ, CA 95060

cc: **DOREEN J. GRIDLEY**
ICE MILLER, LLP
ONE AMERICAN SQUARE, SUITE 3100
INDIANAPOLIS, IN 46282-0200

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OFFICE OF PETITIONS

MAX COOPERMAN
233 SUNSET AVENUE
SANTA CRUZ, CA 95060

In re Application of

COOPERMAN, et al.
Application No. 10/382,104
Filed: March 5, 2003
Attorney Docket No. **1546.018US1**

DECISION ON REQUEST FOR REVOCATION OF POWER OF ATTORNEY

This is a decision on the Request to Revoke the attorney or agent of record under 37 C.F.R. § 1.36(a), filed December 18, 2007 and re-submitted February 4, 2008.

The request is **NOT APPROVED.**

A power of attorney, pursuant to § 1.32(b), may be revoked at any stage in the proceeding of a case by an applicant for patent (§ 1.41(b)) or an assignee of the entire interest of the applicant under § 3.71(b). Fewer than all of the applicants (or by fewer than the assignee of the entire interest of the applicant) may only revoke the power of attorney upon a showing of sufficient cause, and payment of the petition fee set forth § 1.17(h). For the assignee to take action a proper statement under § 3.73(b) is required.

The request cannot be approved because the statement under 3.73(b) is not proper in that the chain of title is incomplete and/or improper.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number). The powers of attorney filed on December 18, 2007 and February 4, 2008 do not include one of the above two options.

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: **ICE MILLER, LLP**
ONE AMERICAN SQUARE, SUITE 3100
INDIANAPOLIS, IN 46282-0200

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CALYPSO MEDICAL / PERKINS COIE, LLP
P.O. BOX 1247
SEATTLE, WA 98111-1247

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JUL 27 2007

OFFICE OF PETITIONS

In re Application of :
Nelson J.Wright, et al. :
Application No. 10/382,123 :
Filed: March 4, 2003 :
Attorney Docket No. 341148008US1 :

ON PETITION

This is a decision in response to the petition, filed March 22, 2007, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is DISMISSED.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 22, 2006, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). Since no extension of time under the provisions of 37 CFR 1.136(a) was obtained, the application became abandoned on October 23, 2006. A Notice of Abandonment was mailed on February 22, 2007. In response, on March 22, 2007 the present petition was filed wherein petitioner indicates that a timely response was filed. Petitioner submits a copy of the response filed February 22, 2007.

A review of the record confirms that a response was filed on February 22, 2007. However, the response is considered untimely, as there was no proper petition for extension of time and fee included with the response. Consequently, the present petition under 37 CFR 1.137(b) is necessary to revive the application. The $750 petition fee will be charged to counsel's deposit account as authorized.

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). This petition lacks item 3.

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[1] As amended effective December 1, 1997. See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53194-95 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 119-20 (October 21, 1997).

[2] In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

In accordance with 37 CFR 1.137(b), an adequate statement of unintentional delay must be submitted before the application can be revived.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

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

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

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OFFICE OF PETITIONS

In re Application of
J. Nelson Wright, et al.
Application No. 10/382,123
Filed: March 4, 2003
Attorney Docket No. 341148008US1

ON PETITION

This is a decision in response to the renewed petition, filed October 28, 2007, which, for the reasons stated below, is being treated as a request for a five (5) month extension of time.

The request for a five-month extension of time is **GRANTED**.

The record shows that a Restriction Requirement was mailed on September 22, 2006, which set a one-month shortened statutory period for reply. Accordingly, a reply was due on or before October 22, 2006, or on or before March 22, 2007 with the submission of a proper response and an extension of time fee pursuant to 37 CFR 1.136(a). On February 22, 2007, a response was filed without making an election of the claims to be examined. On the same day, a Notice of Abandonment was mailed. It is noted that the Notice of Abandonment was premature in view of a general authorization to charge fees to counsel's deposit account filed July 7, 2003. However, on March 22, 2007, a petition under 37 CFR 1.137(b) was filed, along with an election of the invention to be examined. The petition was dismissed in a decision mailed July 27, 2007. Since petitioner may obtain an extension of time up to an including March 22, 2007, this case was not, in fact, abandoned.

In view of the response filed March 22, 2007, an appropriate extension of time for five (5) months will be charged to counsel's deposit account as authorized.

The Notice of Abandonment mailed February 22, 2007, is hereby **vacated** and the abandonment is **withdrawn**.

For the record, the petition filed March 22, 2007 is dismissed as moot, not for the reason noted in the decision mailed July 27, 2007.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. All other inquiries regarding this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 3735 for appropriate action in the normal course of business on the reply received March 22, 2007.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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SEP 15 2005

STOEL RIVES LLP
900 SW Fifth Avenue
Suite 2600
Portland, OR 97204-1268

In re application of	:	**DECISION ON PETITION**
Jake Heelan, et al.	:	**TO MAKE SPECIAL**
Application No. 10/382,125	:	**(COUNTER TERRORISM)**

Filed: March 4, 2003
For: EMERGENCY INFORMATION MANAGEMENT SYSTEM

This is in response to the petition filed on July 8, 2005 to make the above-identified application special on the basis of inventions for countering terrorism, as set forth in MPEP § 708.02, XI.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h); and (B) a statement explaining how the invention contributes to countering terrorism.

The petition filed July 8, 2005 lacks requirement (A), above. Applicant has not authorized or provided payment of the appropriate petition fee. In view of this deficiency, the petition is **DISMISSED**. As the fee of requirement (A) above has not been paid, further consideration of the merits of the petition have not been considered.

Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Should petitioner desire reconsideration, a renewed petition should be submitted providing the information as outlined above.

Any renewed petition should be submitted to the Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450. The envelope

should indicate that the correspondence be brought to the attention of Technology Center 3600.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(571) 272-6587

KJD/rjc: 08/24/05

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Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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OCT - 3 2005

STOEL RIVES LLP
900 SW Fifth Avenue
Suite 2600
Portland, OR 97204-1268

In re application of	:	**DECISION ON PETITION**
Jake Heelan, et al.	:	**TO MAKE SPECIAL**
Application No. 10/382,125	:	**(COUNTER TERRORISM)**

Filed: March 4, 2003
For: EMERGENCY INFORMATION MANAGEMENT SYSTEM

This is in response to the renewed petition filed on September 21, 2005 to make the above-identified application special on the basis of inventions for countering terrorism, as set forth in MPEP § 708.02, XI.

Applicant requests reconsideration of the petition filed July 08, 2005, which was dismissed in the decision mailed September 15, 2005, on the grounds that the appropriate fee had not been paid. Applicant has correctly noted that effective October 21, 2004 a fee is no longer required to petition to make an application special on the basis of contributing to countering terrorism. The Office apologizes for its error.

The requirement for granting special status under this section is: (A) a statement explaining how the invention contributes to countering terrorism.

Applicant's invention pertains to a method of improving information sharing amongst civilian agencies and organization playing a role in countering terrorism. The invention may also have counter-terrorism value in a military setting by supporting force protection efforts. Applicant's petition to make special includes, a statement explaining how the invention contributes to countering terrorism by enabling law enforcement, fire, emergency medical services, public officials, and private CIPs such as utilities, hospitals, petro-chemical companies, air/sea ports, railroads and others, to publish/receive timely media, as a means to

improve situational awareness and provide key decision makers with information that is both current and relevant

Since the requirement for special status under MPEP § 708.02 XI has been met, the petition is **GRANTED**.

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

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

SUMMARY: Petition to Make Special **GRANTED**.

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

SNM/rjc: 09/23/05

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OFFICE OF PETITIONS

MARGARET J. SAMPSON
VINSON & ELKINS LLP
2300 FIRST CITY TOWER
1001 FANNIN
HOUSTON, TX 77002-6760

In re Application of	:	
Cheryl D. Blume, et al.	:	
Application No. 10/382,126	:	DECISION ON PETITION
Filed: March 4, 2003	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. SOM700/4-004CIP6US/58002	:	

This is a decision on the petition, filed February 7, 2007, which is being treated under 37 CFR 1.78(a)(3) to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional application No. 09/960,277 as set forth in the amendment filed August 7, 2006.

The petition is **GRANTED**.

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

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

[1] Any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed copending applications or international applications designating the United States of America must contain or be amended to contain a reference (amendment to the first line of the specification following the title or in an application data sheet (ADS) to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) or international application number and international filing date filing date and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate (*see* § 1.14).

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

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

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

This application is being forwarded to Technology Center Art Unit 1615 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed application.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Sherry D. Brinkley

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Attachment: Corrected Filing Receipt

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/382,126	03/04/2003	1615	2224	SOM700/4-004CIP6US/58002	62	10

CONFIRMATION NO. 6452

CORRECTED FILING RECEIPT

OC000000024451943

Margaret J. Sampson
VINSON & ELKINS LLP
2300 First City Tower
1001 Fannin
Houston, TX 77002-6760

Date Mailed: 06/20/2007

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)

Cheryl D. Blume, Tampa, FL;
Anthony R. DiSanto, Gobles, MI;

Power of Attorney: The patent practitioners associated with Customer Number **21586**.

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/361,609 03/04/2002
and is a CIP of 09/960,277 09/21/2001 PAT 6,562,365
which is a CON of 08/679,330 07/12/1996 PAT 6,348,208
which is a CIP of PCT/US96/01561 01/11/1996
and is a CIP of 08/372,139 01/13/1995 ABN
and claims benefit of 60/001,979 07/31/1995

Foreign Applications

If Required, Foreign Filing License Granted: 05/01/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/382,126

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Methods for preventing and treating peripheral neuropathy by administering desmethylselegiline delivery compositions

Preliminary Class

424

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

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

license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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

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

NOT GRANTED

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

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APR 16 2009

OFFICE OF PETITIONS

In re Application of	:	
Cheryl D. Blume, et al.	:	
Application No. 10/382,126	:	DECISION ON PETITION
Filed: March 4, 2003	:	TO WITHDRAW
Attorney Docket No. SOM700/4-004CIP6US/58002	:	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 20, 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 Margaret Sampson on behalf of all attorneys of record who are associated with customer No. 21586. All attorneys/agents associated with the Customer Number 21586 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of

the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

There are no pending Office actions at the present time.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

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

cc: CHERYL D. BLUME
2902 WHITTINGTON PLACE
TAMPA, FL 33618

cc: MYLAN, INC. (STEVEN H. FLYNN)
WHITE BIRCH TOWERII
1311 PINEVIEW DRIVE
5TH FLOOR
MORGANTOWN, WV 26505

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
10/382,126	03/04/2003	Cheryl D. Blume	SOM700/4-004CIP6US/58002

CONFIRMATION NO. 6452

POWER OF ATTORNEY NOTICE

21586
VINSON & ELKINS, L.L.P.
FIRST CITY TOWER
1001 FANNIN STREET, SUITE 2500
HOUSTON, TX 77002-6760

OC000000035461985

Date Mailed: 04/13/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/20/2009.

- 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.

/amwise/

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

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OFFICE OF PETITIONS

VOLPE AND KOENIG, P.C.
DEPT. AJ
UNITED PLAZA, SUITE 1600
30 SOUTH 17TH STREET
PHILADELPHIA, PA 19103

In re Application of	:
Edward T. McKay and Karl J. Lemme	:
Application No. 10/382,141	: DECISION REFUSING STATUS
Filed: March 5, 2003	: UNDER 37 CFR 1.47(a)
For: REMOVABLE SHOWER STRIP FOR A PAPERMAKING MACHINE	:

This is in response to the "Petition Under 37 CFR 1.47(a)," filed September 25, 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 Edward T. McKay and Karl J. Lemme as joint inventors.

Accordingly, on April 23, 2003, a "Notice to File Missing Parts of Application" was mailed, requiring an executed oath or declaration, and a surcharge for its late filing.

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

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

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

(3) the petition fee; and

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

Applicant lacks item (2), as set forth above.

As to item (2),an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 still has not been presented. The declaration submitted September 25, 2003 does not set forth either inventor's mailing address. An oath or declaration in compliance with 37 CFR 1.63 and 1.64 is REQUIRED. See MPEP 409.03(a).

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

By mail: Mail Stop Petition
Commissioner for Patents
Box 1450
Alexandria, VA 22313

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

By hand: Office of Petitions
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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VOLPE AND KOENIG, P.C.
DEPT. AJ
UNITED PLAZA, SUITE 1600
30 SOUTH 17TH STREET
PHILADELPHIA, PA 19103

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OFFICE OF PETITIONS

In re Application of Edward T. McKay and Karl J. Lemme Application No. 10/382,141 Filed: March 5, 2003 For: REMOVABLE SHOWER STRIP FOR A PAPERMAKING MACHINE	DECISION GRANTING PETITION UNDER 37 CFR 1.47(a)

This is in response to the renewed "Petition Under 37 CFR 1.47(a)," filed November 18, 2003.

The petition is granted.

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

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

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

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

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

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EDWARD T. McKAY
45 BROOKSIDE DRIVE
FEEDING HILLS, MA 01030

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NOV 28 2003

OFFICE OF PETITIONS

In re Application of
Edward T. McKay and Karl J. Lemme
Application No. 10/382,141
Filed: March 5, 2003
For: REMOVABLE SHOWER STRIP FOR A PAPERMAKING MACHINE

Dear EDWARD T. McKAY:

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

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

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

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

VOLPE AND KOENIG, P.C.
DEPT. AJ
UNITED PLAZA, SUITE 1600
30 SOUTH 17TH STREET
PHILADELPHIA, PA 19103

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United States Patent and Trademark Office
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MOORE & VAN ALLEN PLLC
P.O. BOX 13706
Research Triangle Park, NC 27709

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Soltero, et al. :
Application No. 10/382,155 :
Filed: March 5, 2003 :
Attorney Docket No. 014844-179.681P :

This is a decision on the petition under 37 CFR 1.137(a), filed May 30, 2006, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to timely reply to the non-final Office action mailed September 7, 2005. The non-final Office action set a shortened statutory period for reply of three months from its mailing date. No response was received within the allowed period, and the application became abandoned on December 8, 2005. A Notice of Abandonment was mailed on May 5, 2006.

Petitioner has established that the non-final Office action was mailed to an incorrect address.

The amendment filed May 30, 2006, is noted and made of record..

The application file will be forwarded to Technology Center 1600, GAU 1654 for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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GORE ENTERPRISE HOLDINGS INC
551 PAPER MILL ROAD
P.O. BOX 9206
NEWARK, DE 19714-9206

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OFFICE OF PETITIONS

In re Application of	:	
James W. Chang et al	:	
Application No. 10/382,157	:	ON PETITION
Filed: March 4, 2003	:	
Attorney Docket No. MP/124D	:	

This is a decision on the petition under 37 CFR 1.313(c), filed November 1, 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 July 8, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 1713 for processing of the request for continued examination under 37 CFR 1.114.

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).

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Paper No. 3

SCHWABE, WILLIAMSON & WYATT, P.C.
PACWEST CENTER, SUITES 1600-1900
1211 SW FIFTH AVENUE
PORTLAND, OR 97204

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OFFICE OF PETITIONS

In re Application of
Seelye, et al.
Application No. 10/382,165
Filed: March 4, 2003
Atty. Dkt No.: 104700-128777

: ON PETITION

This is a decision on the petition filed March 24, 2003 under 37 CFR 1.182 to change the order of inventors in the above-identified application.

The current Office procedure for changing the order of inventors named in an application involves submitting a petition under 37 CFR 1.182 signed by either the attorney or agent of record or all of the applicants designating the desired changed.

The instant petition has met the criteria for changing the order of named inventors. Accordingly, the petition is **GRANTED**.

This application is being forwarded to the Office of Initial Patent Examination for correction of the file wrapper label and the PALM database regarding the order of inventorship.

Telephone inquiries pertaining to this decision should be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DEAN A. CRAINE, P.S.
SUITE 140
400 - 112TH AVE. NE
BELLEVUE WA 98004

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OFFICE OF PETITIONS

In re Application of
Rick W. Capps et al.
Application No. 10/382,200
Filed: March 4, 2003
Attorney Docket No: **NATC 101**

ON PETITION

This is a decision on the petition filed May 6, 2009 to withdraw the holding of abandonment which is treated under 37 CFR 1.181.

The petition to withdraw the holding of abandonment is **GRANTED**.

In response to a non-Final Office Action mailed June 19, 2008, which set a three month period for reply, petitioners filed an amendment and three month extension of time request on December 22, 2008 (December 19, 2008 certificate of mail date). In response, a Notice of Non-Compliant Amendment (37 CFR 1.121) was mailed on January 12, 2009 noting that the amendment filed December 22, 2008 was not in compliance with 37 CFR 1.121(c)(4)(i). The Notice set the longer of one month or thirty days for reply. No response having been filed, the application became abandoned and accordingly, a Notice of Abandonment was mailed April 14, 2009.

Petitioner asserts that a response was timely filed on January 16, 2009 and includes a copy of the response that was filed by facsimile transmission with a certificate of facsimile transmission dated January 16, 2009, pursuant to 37 CFR 1.8. Petitioner argues that an incorrect serial number was used in the communication of that response and therefore must not have been matched.

While, the requirement for filing papers with the USPTO is that every paper bear an appropriate application no. or identifier, other identifiable information was found to be on the papers filed as the response. As such, while the papers were filed in the incorrect application, they have now been matched with the correct application and thus the response was timely.

Accordingly, the Notice of Abandonment mailed April 14, 2009 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 2121 for treatment of the response filed January 16, 2009.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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KILPATRICK STOCKTON LLP - 41305
CHARLES CALKINS
1001 WEST FOURTH STREET
WINSTON-SALEM NC 27101

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OFFICE OF PETITIONS

In re Application of	:	
Adnan M. M. Mjalli, et al.	:	
Application No. 10/382,203	:	DECISION GRANTING PETITION
Filed: March 5, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. TTP 2002-01	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed November 2, 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 7, 2006 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application 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
Frances M. Hicks
Petitions Examiner
Office of Petitions

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

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ALEXANDRIA, VA 22313-1450
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KILPATRICK STOCKTON LLP - 41305
CHARLES CALKINS
1001 WEST FOURTH STREET
WINSTON-SALEM NC 27101

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MAR 19 2007

OFFICE OF PETITIONS

In re Application of	:	
Mjalli et al.	:	
Application No. 10/382,203	:	
Filed: March 5, 2003	:	LETTER REGARDING
Attorney Docket No.TTP 2002-01	:	PATENT TERM ADJUSTMENT
	:	

This is in response to the "Communication Regarding Patent Term Adjustment (PTA) Indicated in Notice of Allowance" filed January 17, 2007. Applicants disclose that they believe the correct determination of patent term adjustment under 35 USC § 154(b) at the time of the mailing of the notice of allowance is four hundred eighteen (418) days, not four hundred seventy-five (475) days.

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

The Office has updated the PALM screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is three hundred ninety-nine **(399)** days. A copy of the updated PALM screen, showing the correct determination, is enclosed.

On December 26, 2006, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 475 days. Applicants disclose that a delay of 21 days

should be entered for their filing of an amendment under 1.312 and a reduction of 36 days should be entered for their filing of a supplemental response on December 8, 2006. Applicants state that any period of adjustment associated with the petition under 37 CFR 1.313(c)(2) to withdraw the application from issue filed on November 2, 2006 runs concurrently with the delay associated with the supplemental response filed December 8, 2006.

The record supports a conclusion that the above-identified application is not subject to a terminal disclaimer.

A review of the record confirms that an amendment after notice of allowance was filed on June 16, 2006. The Office mailed a response to that amendment on July 6, 2006. Applicants are correct that a period of reduction of 21 days (pursuant to 37 CFR 1.704(c)(10)) should have been entered for this applicant delay.

A review of the record further reveals that a petition to withdraw from issue, a request for continued examination (RCE) and an information disclosure statement (IDS) were filed on November 2, 2006 after the mailing of the notice of allowance on June 14, 2006 (and after payment of the issue fee on September 7, 2006). The Office mailed a response to the petition on November 7, 2006. Accordingly, pursuant to 37 CFR 1.704(c)(10), with respect to the petition, a period of reduction of 6 days should have been entered.

On December 8, 2006, applicants filed a further amendment after the mailing of the notice of allowance. Applicants are incorrect that a period of reduction of 36 days, pursuant to 37 CFR 1.704(c)(8), should be entered for this amendment. As this response was also filed after the mailing of the notice of allowance, the basis for entry of a period of reduction continues to be 37 CFR 1.704(c)(10). A notice of allowance was mailed in response to the RCE and IDS filed November 2, 2006, and to the amendment filed December 8, 2006, on December 26, 2006. Pursuant to 37 CFR 1.704(c)(10), a period of reduction of 49 days should be entered for the non-overlapping period of November 8, 2006 to December 26, 2006 (the period from November 2, 2006 to November 7, 2006 is the overlapping period of 6 days).

In view thereof, the determination of patent term adjustment at the time of the mailing of the notice of allowance mailed December 26, 2006 is three hundred ninety-nine (399) days.

As this letter was submitted as an advisement to the Office of an error in Patentee's favor, the Office will not assess the $200.00 fee under 37 CFR 1.18(e). The Office thanks patentee for their good faith and candor in bringing this to the attention of the Office.

It is noted that the instant paper was filed by an attorney of record. However, the petition used the address of the assignee, which is not the address of record. This decision and all future correspondence will continue to be mailed to the correspondence address of record until such time as a proper change of address is filed.

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PALM Screen

Day : Monday
Date: 3/19/2007

PALM INTRANET

Time: 08:55:47

PTA Calculations for Application: 10/382203			
Application Filing Date:	03/05/2003	PTO Delay (PTO):	498
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	23
Post-Issue Petitions:	0	Total PTA (days):	399
PTO Delay Adjustment:	-76		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
96	03/19/2007	ADJUSTMENT OF PTA CALCULATION BY PTO		49	
95	03/19/2007	ADJUSTMENT OF PTA CALCULATION BY PTO		6	
94	03/19/2007	ADJUSTMENT OF PTA CALCULATION BY PTO		21	
89	12/26/2006	MAIL NOTICE OF ALLOWANCE			
88	12/21/2006	ISSUE REVISION COMPLETED			
87	12/21/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
86	12/21/2006	NOTICE OF ALLOWABILITY			
85	11/02/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
84	11/02/2006	REFERENCE CAPTURE ON IDS			
83	11/02/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
82	11/14/2006	DATE FORWARDED TO EXAMINER			
81	11/02/2006	REQUEST FOR CONTINUED EXAMINATION (RCE)			
80	11/14/2006	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
79	11/07/2006	RECORD PETITION DECISION OF GRANTED TO WITHDRAW FROM ISSUE			
78	11/02/2006	WORKFLOW - REQUEST FOR RCE - BEGIN			
77	11/02/2006	EXPORT TO FINAL DATA CAPTURE			
76	10/31/2006	FINISHED INITIAL DATA CAPTURE			
75	11/02/2006	PETITION ENTERED			
74	11/01/2006	DISPATCH TO FDC			
73	09/07/2006	RESPONSE TO REASONS FOR ALLOWANCE			
72	09/13/2006	APPLICATION IS CONSIDERED READY FOR ISSUE			

71	09/07/2006	ISSUE FEE PAYMENT VERIFIED			
70	09/07/2006	ISSUE FEE PAYMENT RECEIVED			
69	08/24/2006	MISCELLANEOUS INCOMING LETTER			
68	08/11/2006	WORKFLOW - QUERY REQUEST - FINISH			
67	08/09/2006	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
66	08/09/2006	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
65	08/07/2006	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
64	08/02/2006	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
63	07/31/2006	TC RETURN TO PUBS			
62	07/19/2006	PUBS CASE REMAND TO TC			
61	07/21/2006	WORKFLOW - QUERY REQUEST - BEGIN			
60	07/06/2006	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
59	07/06/2006	MAIL RESPONSE TO 312 AMENDMENT (PTO-271)			
58	06/30/2006	RESPONSE TO AMENDMENT UNDER RULE 312			
57	06/22/2006	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
56	06/20/2006	EXPORT TO INITIAL DATA CAPTURE			
55	06/16/2006	AMENDMENT AFTER NOTICE OF ALLOWANCE (RULE 312)			
54	06/14/2006	MAIL NOTICE OF ALLOWANCE			
53	06/12/2006	ISSUE REVISION COMPLETED			
52	06/12/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
51	06/12/2006	CASE DOCKETED TO EXAMINER IN GAU			
50	06/12/2006	NOTICE OF ALLOWABILITY			
49	06/08/2006	MISCELLANEOUS INCOMING LETTER			
48	06/02/2006	DATE FORWARDED TO EXAMINER			
47	05/26/2006	SUPPLEMENTAL RESPONSE		23	44
46	05/03/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
45	05/09/2006	DATE FORWARDED TO EXAMINER			
44	05/03/2006	RESPONSE AFTER NON-FINAL ACTION			
43	05/03/2006	REFERENCE CAPTURE ON IDS			
42	05/03/2006	INFORMATION DISCLOSURE STATEMENT (IDS)			

		FILED			
41	03/01/2006	MAIL NON-FINAL REJECTION			
40	03/01/2006	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
39	02/21/2006	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
38	02/27/2006	NON-FINAL REJECTION			
37	01/17/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
36	10/07/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
35	11/19/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
34	08/12/2003	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
33	01/30/2006	DATE FORWARDED TO EXAMINER			
32	01/17/2006	RESPONSE AFTER NON-FINAL ACTION			
31	01/17/2006	REFERENCE CAPTURE ON IDS			
30	01/17/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
29	01/31/2006	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
28	11/23/2005	MAIL NON-FINAL REJECTION			
27	11/22/2005	NON-FINAL REJECTION			
26	10/24/2005	DATE FORWARDED TO EXAMINER			
25	10/07/2005	RESPONSE TO ELECTION / RESTRICTION FILED			
24	10/07/2005	REFERENCE CAPTURE ON IDS			
23	10/07/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
22	09/15/2005	MAIL RESTRICTION REQUIREMENT	498		-1
21	09/14/2005	REQUIREMENT FOR RESTRICTION / ELECTION			
20	08/13/2005	CASE DOCKETED TO EXAMINER IN GAU			
19	11/19/2004	REFERENCE CAPTURE ON IDS			
18	11/19/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
17	11/18/2004	MISCELLANEOUS INCOMING LETTER			
16	09/23/2004	CASE DOCKETED TO EXAMINER IN GAU			
15	12/30/2003	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
14	12/24/2003	IFW TSS PROCESSING BY TECH CENTER			

		COMPLETE			
13	12/24/2003	REFERENCE CAPTURE ON IDS			
12	10/22/2003	REQUEST FOR REFUND			
11	10/22/2003	REQUEST FOR REFUND			
10	08/12/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
9	08/08/2003	CASE DOCKETED TO EXAMINER IN GAU			
8	06/11/2003	APPLICATION DISPATCHED FROM OIPE			
7	06/11/2003	APPLICATION IS NOW COMPLETE			
6	05/19/2003	ADDITIONAL APPLICATION FILING FEES			
5	05/19/2003	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
4	05/08/2003	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
3	04/23/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
2	03/27/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	03/05/2003	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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KILPATRICK STOCKTON LLP - 41305
CHARLES CALKINS
1001 WEST FOURTH STREET
WINSTON-SALEM NC 27101

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SEP 0 4 2007

OFFICE OF PETITIONS

In re Application of	:	
Mjalli et al.	:	DECISION ON
Application No. 10/382,203	:	REQUEST FOR RECONSIDERATION
Filed: March 5, 2003	:	OF DECISION ON APPLICATION
Attorney Docket No.TTP 2002-01	:	FOR PATENT TERM ADJUSTMENT
	:	

This is a decision on the "Petition to Adjust (PTA) Indicated in Notice of Allowance" filed April 27, 2007. Applicants request that the patent term adjustment under 35 U.S.C. § 154(b) indicated in the notice of allowance mailed April 19, 2007 be changed from three hundred ninety-nine (399) days to four hundred eighteen (418) days. To reach this conclusion, applicants, in effect, request reconsideration of the decision of March 19, 2007, correcting the patent term adjustment at the time of the mailing of the notice of allowance mailed March 21, 2007 from four hundred seventy-five (475) days to three hundred ninety-nine (399) days.

The request for reconsideration of the decision of March 19, 2007 is granted to the extent that the decision of March 19, 2007 has been reconsidered; however, the request for reconsideration is **DISMISSED** with respect to making any change in the patent adjustment decision under 35 U.S.C. § 154(b) of 399 days indicated in the decision of March 19, 2007.

BACKGROUND

On June 14, 2006, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is four hundred seventy-five (475) days.

After the mailing of the notice of allowance, applicants filed several papers.

- On June 16, 2006, applicants filed an amendment. To which, the Office mailed a response on July 6, 2006.
- On September 7, 2006, applicants paid the issue fee by Fee Transmittal (85-B) and submitted a Comments on Statement of Reasons for Allowance.
- On November 2, 2006, applicants filed a petition to withdraw from issue, a request for continued examination (RCE) and an information disclosure statement (IDS). On November 7, 2006, the Office mailed a response to the petition.
- On December 8, 2006, applicants filed a further amendment. On December 26, 2006, the Office mailed a notice of allowance in response to the RCE and IDS filed November 2, 2006 and in response to the amendment filed December 8, 2006.

On December 26, 2006, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. However, the Notice continued to state that the patent term adjustment (PTA) to date is four hundred seventy-five (475) days.

On January 17, 2007, applicants filed a letter pursuant to their duty of good faith and candor to the Office, disclosing that further reduction of the patent term adjustment was warranted given the filing of the papers on June 16, 2006, November 2, 2006 and December 8, 2006. Specifically, applicants disclosed that they believed the correct determination of patent term adjustment under 35 USC § 154(b) at the time of the mailing of the notice of allowance is four hundred (418) days.

By decision mailed March 19, 2007, the Office determined that the correct patent term adjustment at the time of the mailing of the notice of allowance on December 26, 2006 is three hundred ninety-nine (399) days. It is undisputed that no reduction pursuant to 37 CFR 1.704(c)(10) is warranted for the payment of the issue fee and the filing of the Comments on Statement of Reason for Allowance on September 7, 2006[1]. In addition, the Office agreed with applicants

[1] It is established that neither a submission of a Fee(s) Transmittal nor of a Comment on Statement of Reasons for Allowance is not a failure to engage in

that a period of reduction of 21 days pursuant to 37 CFR 1.704(c)(10) should have been entered for the filing of the amendment on June 16, 2006. However, in association with the petition filed November 2, 2006, the Office determined that pursuant to 37 CFR 1.704(c)(10), a period of reduction of 6 days should be entered. In association with the RCE and IDS filed November 2, 2006 and the amendment filed December 8, 2006, the Office determined that a period of reduction of 49 days should be entered for the non-overlapping period of November 8, 2006 to December 26, 2006.

On April 19, 2007, applicants filed the instant request for reconsideration of the decision of March 19, 2007. At issue is the Office's entry of the periods of reduction of 6 days and 49 days pursuant to 37 CFR 1.704(c)(10). Applicants maintain that only a period of reduction of 36 days pursuant to 37 CFR 1.704(c)(8) should have been entered. Applicants argue that the amendment filed December 8, 2006 was a Supplemental Response and that it was not filed after a notice of allowance. Applicants argue that while a notice of allowance was mailed on June 14, 2006, a RCE was subsequently filed on November 2, 2006, re-opening prosecution. Applicants further argue thus prosecution was not closed when the supplemental response was filed. Moreover, because prosecution was re-opened when the supplemental response was filed, any delay associated with the supplemental response should be calculated under rule 1.704(c)(8) and not under rule 1.704(c)(10). In addition, applicants argue that using rule 1.704(c)(10) to determine any period of adjustment associated with the supplemental response would be inconsistent with the Office's guidance in interpreting rule 1.704(c)(10).

---

reasonable efforts to conclude prosecution within the meaning of 37 CFR 1.704(c)(10). As stated in MPEP 2731: Certain papers filed after allowance are not considered to be a failure to engage in reasonable efforts to conclude processing or examination of an application. 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. Pat. Office 111 (June 26, 2001). The submission of the following papers after a "Notice of Allowance" is not considered a failure to engage in reasonable efforts to conclude processing or examination of an application: (1) Fee(s) Transmittal (PTOL-85B); (2) Power of Attorney; (3) Power to Inspect; (4) Change of Address; (5) Change of Status (small/not small entity status); (6) a response to the examiner's reasons for allowance or a request to correct an error or omission in the "Notice of Allowance" or "Notice of Allowability;" and (7) letters related to government interests (e.g., those between NASA and the Office).

RELEVANT STATUTES AND REGULATIONS

35 U.S.C. 151 provides, in pertinent part, that:

> If it appears that applicant is entitled to a patent under the law, a written notice of allowance of the application shall be given or mailed to the applicant. The notice shall specify a sum, constituting the issue fee or a portion thereof, which shall be paid within three months thereafter.
>
> Upon payment of this sum the patent shall issue, but if payment is not timely made, the application shall be regarded as abandoned.

35 U.S.C. 154(b)(2)(C)(i) provides, in pertinent part, that:

> The period of adjustment of the term of a patent under paragraph (1) shall be reduced by a period equal to the period of time during which the applicant failed to engage in reasonable efforts to conclude prosecution of the application.
>
> (ii) With respect to adjustments to patent term made under the authority of paragraph (1)(B), an applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of 3 months that are taken to respond to a notice from the Office making any rejection, objection, argument, or other request, measuring such 3-month period from the date the notice was given or mailed to the applicant.
>
> (iii) The Director shall prescribe regulations establishing the circumstances that constitute a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application.

37 CFR 1.704(c) provides, in pertinent part, that:

> Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of

the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:

***

(8) Submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the initial reply was filed and ending on the date that the supplemental reply or other such paper was filed;

***

(10) Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of:

(i) The number of days, if any, beginning on the date the amendment under §1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper; or

(ii) Four months;

OPINION

Applicants' arguments on request for reconsideration have been considered but not found persuasive. The reductions at issue are properly entered pursuant to 37 CFR 1.704(c)(10), not 37 CFR 1.704(c)(8). Further these reductions pursuant to 37 CFR 1.704(c)(10) are properly calculated as 6 days and 49 days.

At the core of applicants' argument is a claim that 37 CFR 1.704(c)(10) only applies when prosecution is closed. However, rule 1.704(c)(10) clearly states that the submission of an amendment under 1.312 or other paper after a notice of allowance has been given or mailed constitutes a failure to engage in reasonable efforts to conclude prosecution of the application. It does not reference whether prosecution is open or closed. It speaks to the filing of papers after the mailing of notice of allowance being a failure to engage in reasonable efforts to conclude examination. It is

controlling that the relevant papers were filed after the mailing of the notice of allowance.

Other than those papers identified in this Notice, all papers filed after allowance of an application substantially delay the Office's ability to process an application for a patent because the Office does not wait until payment of the Issue Fee to begin the patent issue process. The filing of a Request for Continued Examination (RCE) and of additional papers after the filing of the RCE are not identified in the Notice.

Furthermore, petitioner argues but does not specify any guidance to which the Office's interpretation of 37 CFR 1.704(c)(10) is inconsistent. Nor does petitioner specify any binding authority for his conclusion that prosecution is re-opened upon filing of the RCE and that the Office should thereafter calculate any further paper under 37 CFR 1.704(c)(8).

In view thereof, the determination of patent term adjustment at the time of the mailing of the notice of allowance mailed December 26, 2006 is three hundred ninety-nine (399) days.

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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Hogan & Hartson L.L.P.
1999 Avenue of the Stars
Suite 1400
Los Angeles, CA 90067

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OFFICE OF PETITIONS

In re Application of	:	
Nathan Sassover	:	
Application No. 10/382,213	:	DECISION ON PETITION
Filed: March 5, 2003	:	TO WITHDRAW
Attorney Docket No. 89179.0005	:	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 11, 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 26021 has been revoked by the assignee of the patent application on November 3, 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: **Anne M. Schneiderman**
Law Offices of Anne M. Schneiderman PH.D
P.O. Box 422
Ithaca, NY 14851-0422

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United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/382,213	03/05/2003	Nathan Sassover	89179.0005

CONFIRMATION NO. 8172

OC0000000021240390

OC000000021240390

26021
HOGAN & HARTSON L.L.P.
1999 AVENUE OF THE STARS
SUITE 1400
LOS ANGELES, CA 90067

Date Mailed: 11/15/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/03/2006.

- 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).

Terri S. Williams

TERRI S WILLIAMS
OP (571) 272-2991

FORMER ATTORNEY/AGENT COPY

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Anne M. Schneiderman
LAW OFFICES OF ANNE M. SCHNEIDERMAN, PH.D
P.O. box 422
Ithaca, NY 14851-0422

MAILED

MAR 27 2009

OFFICE OF PETITIONS

In re Application of	:	
Nathan Sassover	:	
Application No. 10/382,213	:	DECISION ON PETITION
Filed: March 5, 2003	:	TO WITHDRAW
Attorney Docket No. SASS-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 January 9, 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 Anne M. Schneiderman on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

There is an outstanding Office action mailed December 10, 2008 that requires a reply from the applicant.

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: **Unifund Corporation Limited**
Nathan Sassover, President
9301 Wilshire Blvd., Suite 300
Beverly Hills, CA 90210

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/382,213	03/05/2003	Nathan Sassover	SASS-002

CONFIRMATION NO. 8172

POWER OF ATTORNEY NOTICE

OC000000035203359

27575
Anne M. Schneiderman
LAW OFFICES OF ANNE M. SCHNEIDERMAN PH.D.
P.O Box 422
Ithaca, NY 14851-0422

Date Mailed: 03/26/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/09/2009.

- 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 12/13/06

Paper No.: ——

TO SPE OF : ART UNIT 1642

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/382240 Patent No.: 7135547B2

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: _____

Shannon A. Foley
SPE

1642
Art Unit

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Stela GENGRINOVITCH	Confirmation No.: 3323
Patent No.: 7,135,547 B2	Application No.: 10/382,240
Patent Date: November 14, 2006	Filing Date: March 5, 2003
For: PEPTIDE CONJUGATED ANTI-CANCER PRODRUGS	Attorney Docket No.: 85189-4400

REQUEST FOR CERTIFICATE OF CORRECTION
UNDER 37 C.F.R. §§ 1.322 and 1.323

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

Sir:

Patentee hereby respectfully requests the issuance of a Certificate of Correction in connection with the above-identified patent. The corrections are listed on the attached Form PTO-1050. The corrections requested are as follows:

Column 27:

Line 33 (claim 1, line 6), after "GAG and extracellular" insert -- matrix --.
Line 35 (claim 1, line 8), after "GAG and extracellular" insert -- matrix --.

The changes to claim 1 are requested to correct a clerical error and do not involve changes that would constitute new matter or require reexamination. Support for these changes appear at paragraph 51 of the published application and in application claim 25.

Line 39 (claim 2, line 3), delete "wit" and insert -- with --.
Line 46 (claim 2, line 10), delete "Pf4," and insert -- PF4, --.

Support for the changes to claim 2 appear in application claim 25.

Column 28:

Line 37 (claim 13, line 3), delete "antitumur" and insert -- antitumor --. Support for this change appears in application claim 37.

Line 44 (claim 14, line 5), delete "cyrosine" and insert -- cytosine --.
Line 47 (claim 14, line 8), delete "vinclestin" and insert -- vindestin --.
Line 48 (claim 14, line 9), delete "Teniposide." and insert -- Teniposide, --.

Line 49 (claim 14, line 10), delete "adrenocorticoids" and insert -- adrenocorticorticoids --.

Support for the changes to claim 14 appear in application claim 38.

Column 29:

Line 1 (claim 19, line 3), delete "lle" and insert -- Ile --.
Line 3 (claim 19, line 5), delete "DI" and insert -- ID --.

Support for the changes to claim 19 appear in application claim 43.

Line 6 (claim 20, line 3), delete "lle" and insert -- Ile --.
Line 7 (claim 20, line 4), delete "Lyd-"; and delete "lle-lle" and insert -- Ile-Ile --.
Line 9 (claim 20, line 6), delete "lle" and insert -- Ile --.
Line 10 (claim 20, line 7), delete "lle-lle" and insert -- Ile-Ile --.
Line 12 (claim 20, line 9), delete "lle" and insert -- Ile --.
Line 13 (claim 20, line 10), delete "lle-lle" and insert -- Ile-Ile --.
Line 18 (claim 20, line 15), after "Arg-Lys-" insert -- Arg-Lys- --.

Support for the changes to claim 20 appear in application claim 44.

Column 30:

Line 8 (claim 23, line 3), delete "binding" and insert -- being --.
Line 10 (claim 23, line 5), after "by malignant" insert -- cells, thereby preferentially releasing the antiproliferative drug within, near or at the malignant --.
Line 15 (claim 23, line 10), delete "lle" and insert -- Ile --.

Support for the changes to claim 23 appear in application claim 47.

The requested changes are to correct errors of a clerical or typographical nature and do not involve changes that would constitute new matter or require reexamination. A fee of $100 is believed to be due for this request. Please charge the required fees to Winston & Strawn LLP Deposit Account No. 50-1814. Please issue a Certificate of Correction in due course.

Respectfully submitted,

11/30/06
Date

Allan A. Fanucci, Reg. No. 30,256

WINSTON & STRAWN LLP
Customer No. 28765
212-294-3311

DC:493361.1

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO.: 7135,547 B2
APPLICATION NO.: 10/382,240
DATED: November 14, 2006
INVENTOR(S): Gengrinovitch

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

Column 27:
Line 33 (claim 1, line 6), after "GAG and extracellular" insert -- matrix --.
Line 35 (claim 1, line 8), after "GAG and extracellular" insert -- matrix --.
Line 39 (claim 2, line 3), delete "wit" and insert -- with --.
Line 46 (claim 2, line 10), delete "Pf4," and insert -- PF4, --.

Column 28:
Line 37 (claim 13, line 3), delete "antitumur" and insert -- antitumor --.
Line 44 (claim 14, line 5), delete "cyrosine" and insert -- cytosine --.
Line 47 (claim 14, line 8), delete "vinclestin" and insert -- vindestin --.
Line 48 (claim 14, line 9), delete "Teniposide." and insert -- Teniposide, --.
Line 49 (claim 14, line 10), delete "adrenocorticoids" and insert -- adrenocorticorticoids --.

Column 29:
Line 1 (claim 19, line 3), delete "lle" and insert -- Ile --.
Line 3 (claim 19, line 5), delete "DI" and insert -- ID --.
Line 6 (claim 20, line 3), delete "lle" and insert -- Ile --.
Line 7 (claim 20, line 4), delete "Lyd-"; and delete "lle-lle" and insert -- Ile-Ile --.
Line 9 (claim 20, line 6), delete "lle" and insert -- Ile --.
Line 10 (claim 20, line 7), delete "lle-lle" and insert -- Ile-Ile --.
Line 12 (claim 20, line 9), delete "lle" and insert -- Ile --.
Line 13 (claim 20, line 10), delete "lle-lle" and insert -- Ile-Ile --.
Line 18 (claim 20, line 15), after "Arg-Lys-" insert -- Arg-Lys- --.

WINSTON & STRAWN LLP
Patent Department
1700 K Street, N.W.
Washington, D.C. 20006-3817

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO.: 7135,547 B2
APPLICATION NO.: 10/382,240
DATED: November 14, 2006
INVENTOR(S): Gengrinovitch

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

Column 30:
Line 8 (claim 23, line 3), delete "binding" and insert -- being --.
Line 10 (claim 23, line 5), after "by malignant" insert -- cells, thereby preferentially releasing the antiproliferative drug within, near or at the malignant --.
Line 15 (claim 23, line 10), delete "lle" and insert -- Ile --.

WINSTON & STRAWN LLP
Patent Department
1700 K Street, N.W.
Washington, D.C. 20006-3817

-continued

```
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<212> TYPE: PRT
<213> ORGANISM: artificial
<220> FEATURE:
<223> OTHER INFORMATION: Protease cleavage site : t - Plasminogen
      Activator/U-Plasminogen Activator

<400> SEQUENCE: 7

Val Arg Gly
1


<210> SEQ ID NO 8
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<213> ORGANISM: artificial
<220> FEATURE:
<223> OTHER INFORMATION: SEQ ID NO 4 + SEQ ID NO 7

<400> SEQUENCE: 8

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1               5                   10                  15

Tyr Lys Ser Trp Ser Val
            20
```

What is claimed is:

1. A prodrug conjugate selected from the group consisting of: Glycosaminoglycan (GAG) binding domain of PF4—MMP1 and MMP9 cleavage site—Melphalan; GAG binding domain of PF4—MMP1 and MMP9 cleavage site—Methotrexate; GAG binding domain of PF4—Proteases cleavage site—Chlorambucil; GAG and extracellular binding domain of VEGF—Protease cleavage site—Chlorambucil; and GAG and extracellular binding domain of VEGF—Protease cleavage site—Melphalan.

matrix

matrix

2. A prodrug comprising a conjugate of at least one antiproliferative drug molecule covalently coupled directly or via a linker to a peptide moiety, wit the peptide being specifically cleavable by a protease abundant in or secreted by malignant cells, thereby preferentially releasing the antiproliferative drug within, near or at the malignant cells by the action of the protease; and a targeting moiety attached to the cleavable peptide moiety, wherein the targeting moiety is selected from a group consisting of GAG binding domain of Pf4, and GAG and extracellular matrix binding domain of VEGF.

with

PF4,

3. The prodrug of claim 1, further comprising at least one protecting group capable of preventing digestion by non-specific proteases.

4. The prodrug of claim 1, wherein the conjugate is pharmacologically inactive.

5. A pharmaceutical composition comprising as an active ingredient a prodrug according to claim 1, together with a pharmaceutically acceptable excipient or diluent.

6. The pharmaceutical composition of claim 5, formulated for intravenous administration.

7. The prodrug of claim 2, wherein the targeting moiety is covalently attached to the cleavable peptide.

8. The prodrug of claim 2, further comprising at least one protecting group capable of preventing digestion by non-specific proteases.

9. The prodrug of claim 2, comprising a plurality of antiproliferative drug molecules.

10. The prodrug of claim 2, further comprising a linker between the drug and the peptide, said linker comprising a chemical compound which may be removed chemically, enzymatically or which decomposes spontaneously.

11. The prodrug of claim 2, wherein the conjugate is pharmacologically inactive.

12. The prodrug of claim 2, wherein the antiproliferative drug molecule is selected from the group consisting of cytotoxic, cytostatic, and chemotherapeutic drugs.

13. The prodrug of claim 12, wherein the antiproliferative drug is selected from the group consisting of alkylating agents, antimetabolites, antitumur antibiotics, vinca alkaloids, epipodophyllotoxins, nitrosoureas, hormonal and antihormonal agents, and toxins.

antitumor

14. The prodrug of claim 13, wherein the antiproliferative drug is selected from the group consisting of cyclophosphamide, chlorambucil, busulfan, Melphalan, Thiotepa, ifosphamide, Nitrogen mustard, methotrexate, 5-Fluorouracil cyrosine arabinoside, 6-thioguanine, 6-mercaptopurine, doxorubicin, daunorubicin, idorubicin, nimitoxantron, dactinomycin, bleomycin, mitomycin, plicamycin, epipodophyllotoxins vincristin, vinblastin, vinclestin, Etoposide, Teniposide, carmustin, lomustin, semustin, streptozocin, adrenocorticoids, estrogens, antiestrogens, progestins, aromatase inhibitors, androgens, antiandrogens, dacarbazin, hexamethylmelamine, hydroxyurea, mitotane, procarbazide, cisplastin, and carboplatin.

cytosine

vindestin

Teniposide,

adrenocorticoids,

15. The prodrug of claim 14, wherein the antiproliferative drug is selected from a group consisting of Melphalan, Methotrexate, and Chlorambucil.

16. The prodrug of claim 2, wherein the cleavable peptide is selected from a group consisting of protease cleavage sites of MMP1, MMP9, cathepsin S, tPA, and uPA.

17. The prodrug of claim 2, wherein the protease is selected from the group consisting of serine proteases, matrix metalloproteinases, aspartic proteases, cysteine proteases, and asparaginyl proteases.

18. The prodrug of claim 17, wherein the asparaginyl protease is legumain.

19. The prodrug of claim 2, wherein the cleavable peptide is selected from the group consisting of: Tyr-Gly-Leu-Leu-

Ile

Gly-Ile-Ala-Gly-Pro-Pro-Gly-Pro (SEQ ID NO:2); Ser-Pro-Gly-Arg-Val-Val-Arg-Gly (SEQ ID NO:5); and Val-Arg-Gly (SEQ ID NO:7).

ID

20. The prodrug of claim 2, wherein the prodrug is selected from the group consisting of: Tyr-Gly-Leu-Leu-Gly-Ile-Ala-Gly-Pro-Pro-Gly-Pro-Pro-Leu-Tyr-Lys-Lys-Lys-Ile-Ile-Lys-Lys-Leu-Leu-Gln-Ser (SEQ ID NO:3) coupled to t-Butoxycarbonyl-N-Melphalan; Tyr-Gly-Leu-Leu-Gly-Ile-Ala-Gly-Pro-Pro-Gly-Pro-Pro-Leu-Tyr-Lys-Lys-Ile-Ile-Lys-Lys-Leu-Leu-Gln-Ser (SEQ ID NO:3) coupled to Di-t-Butoxycarbonyl-N-Methotrexate; Tyr-Gly-Leu-Leu-Gly-Ile-Ala-Gly-Pro-Pro-Gly-Pro-Pro-Leu-Tyr-Lys-Lys-Ile-Ile-Lys-Lys-Leu-Leu-Gln-Ser (SEQ ID NO:3) coupled to Chlorambucil; Ser-Pro-Gly-Arg-Val-Val-Arg-Gly-Lys-Gly-Lys-Gly-Gln-Lys-Arg-Lys-Arg-Lys-Lys-Ser-Arg-Tyr-Lys-Ser-Trp-Ser-Val (SEQ ID NO:6) coupled to Chlorambucil; and Val-Arg-Gly-Lys-Gly-Lys-Gly-Gln-Lys-Arg-Lys-Lys-Ser-Arg-Tyr-Lys-Ser-Trp-Ser-Val (SEQ ID NO:8) coupled to t-Butoxycarbonyl-N-Melphalan.

Ile

Ile-Ile

Ile

Ile-Ile

Ile

Ile-Ile

Arg-Lys-

21. A pharmaceutical composition comprising as an active ingredient a prodrug according to claim 2, together with a pharmaceutically acceptable excipient or diluent.

22. The pharmaceutical composition of claim 21, formulated for intravenous administration.

23. A prodrug comprising a conjugate of at least one antiproliferative drug molecule covalently coupled directly or via a linker to a peptide moiety, with the peptide binding specifically cleavable by a protease abundant in or secreted by malignant cells by the action of the protease; and a targeting moiety attached to the cleavable peptide moiety, wherein the targeting moiety binds to a cancer specific marker found in the malignant cells; wherein the cleavable peptide is selected from the group consisting of:

Tyr-Gly-Leu-Leu-Gly-Ile-Ala-Gly-Pro-Pro-Gly-Pro (SEQ ID NO:2); Ser-Pro-Gly-Arg-Val-Val-Arg-Gly (SEQ ID NO:5); and Val-Arg-Gly (SEQ ID NO:7).

Ile

being

cells, thereby preferentially releasing the antiproliferative drug within, near or at the malignant

* * * * *

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Paper No. 10

MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C.
ONE FINANCIAL CENTER
BOSTON, MA 02111

In re Application of Alsobrook, et al. Application No. 10/382,248 Filed: March 5, 2003 Atty. Dkt. No.: 21402-568C UTIL (Cura-868 For: NOVEL PROTEINS AND NUCLEIC ACIDS ENCODING SAME	DECISION REFUSING STATUS UNDER 37 CFR 1.47(a) COPY MAILED OCT 15 2003 OFFICE OF PETITIONS

This decision is in response to the petition under 37 CFR 1.47(a), filed September 9, 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 March 27, 2003 without an executed oath or declaration. Accordingly, a Notice to File Missing Parts of Nonprovisional Application was mailed May 9, 2003 requiring, *inter alia*, an executed oath or declaration and a surcharge.

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 (2) set forth above. An acceptable oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 has not been presented. The declaration submitted herewith is unacceptable because it is has not been executed by inventor **Edward Z. Voss.** Any renewed petition must be accompanied by a properly executed oath or declaration.

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

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(703) 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 regarding this decision should be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 11

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OCT 29 2003
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MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C.
ONE FINANCIAL CENTER
BOSTON, MA 02111

In re Application of Alsobrook, et al. Application No. 10/382,248 Filed: March 5, 2003 Atty. Dkt. No.: 21402-568C UTIL (Cura-868 For: NOVEL PROTEINS AND NUCLEIC ACIDS ENCODING SAME	VACATED DECISION GRANTING STATUS UNDER 37 CFR 1.47(a)

This is a revised decision and vacates the decision mailed October 15, 2003 in response to a petition under 37 CFR 1.47(a) filed September 22, 2003.

The petition is **GRANTED**.

Petitioner has shown that inventors Weizhen Ji and Edward Z. Voss either cannot be reached, or having been reached, refuse to execute the declaration.

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

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

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

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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WEIZHEN JI
375 OLD ROCK ROAD
BRANFORD, CT 06405

In re Application of Alsobrook, et al. Application No.: 10/382,248 Filed: March 5, 2003 Atty. Dkt. No.: 21402-568C UTIL Cura-868) For: NOVEL PROTEINS AND NUCLEIC ACIDS ENCODING SAME	DECISION REFUSING STATUS UNDER 37 CFR 1.47(b)

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OCT 29 2003
OFFICE OF PETITIONS

Dear Madam:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at (703) 305-0310. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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EDWARD VOSS
128 KNOLLWOOD DRIVE
WALLINGFORD, CT 06592

In re Application of Alsobrook, et al. Application No.: 10/382,248 Filed: March 5, 2003 Atty. Dkt. No.: 21402-568C UTIL Cura-868) For: NOVEL PROTEINS AND NUCLEIC ACIDS ENCODING SAME	DECISION REFUSING STATUS UNDER 37 CFR 1.47(b) COPY MAILED OCT 29 2003 OFFICE OF PETITIONS

Dear Sir:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at (703) 305-0310. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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FOLEY & LARDNER LLP
975 PAGE MILL ROAD
PALO ALTO CA 94304

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OFFICE OF PETITIONS

ON PETITION

In re Patent No. 6,852,724 :
Wolff et al. :
Issue Date: 02/08/2005 :
Application No. 10/382,266 :
Filed: 03/05/2003 :
Attorney Docket No. 98,164-F2 :

This is a decision on the "Petition Under 37 C.F.R. § 1.182 REQUESTING ENTRY OF CORRECTED TERMINAL DISCLAIMER," filed December 27, 2007, requesting the entry of corrected terminal disclaimers, in lieu of the terminal disclaimers filed on June 25, 2004.

In the present petition, patentees state:

> Ownership was recently corrected in the above-noted patent to reflect that the owner of the above-noted patent is **ROCHE PALO ALTO LLC**, successor in interest to **SYNTEX (U.S.A.) INC[.]** Inventor, Andrew A. WOLFF, was obligated to have assigned his rights to **SYNTEX (U.S.A.) INC.** rather than **CV THERAPEUTICS, INC.** During prosecution of the patent application that matured into the above-noted patent, terminal disclaimers were filed indicating that **CV THERAPEUTICS, INC.** was the 100% of the entire right, title, and interest[.] The current assignee does not match the assignee on the terminal disclaimers filed during prosecution. As such, Patentees are respectfully requesting that the Director enter the enclosed corrected Terminal Disclaimers which indicate **ROCHE PALO ALTO LLC** as the 100% owner of the

entire right, title, and interest as shown in the corrected chain of title.

Petition, pp. 1-2.

The petition is **DISMISSED** to the extent that the terminal disclaimers filed June 25, 2004, will not be removed from the record. Any request for reconsideration must be filed within TWO (2) MONTHS. This two-month period is governed by 37 CFR 1.181(f) and is not extendable under 37 CFR 1.136.

Application No. 10/382,266, filed March 5, 2003, issued as U.S. Patent No. 6,852,724 on February 8, 2005.

Patentees do not request that the terminal disclaimers be removed or nullified. There is no error in the patent requiring correction. As such, this petition does not necessitate consideration of whether issuance of a certificate of correction is warranted. Rather, patentees request, in effect, that the terminal disclaimers, filed June 25, 2004, be replaced in the record with the corrected terminal disclaimers filed December 27, 2007.

The terminal disclaimers filed June 25, 2004, were made of record and considered by the examiner in examination and allowance of this application. Removal of the terminal disclaimers filed June 25, 2004, from the application record is inappropriate.

Placement of the terminal disclaimer filed December 27, 2007 (along with the petition and petition decision) in the record is sufficient to complete the record. No further action will be undertaken.

The petition fee will not be refunded.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

CV THERAPEUTICS, INC.
3172 PORTER DRIVE
PALO ALTO CA 94304

In re Patent No. 6,852,724 :
Issue Date: February 8, 2005 :
Application No. 10/382,266 : NOTICE
Filed: March 5, 2003 :
Attorney Docket No. 98,164-F2 :

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

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

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

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

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.

Petitioner will not receive future correspondence related to maintenance fees for the patent unless a "Fee Address" Indication Form (see PTO/SB/47) and Request for Customer Number (see PTO/SB/125) are submitted.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3213.

Cheryl Gibson Baylor

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

cc: A. Blair Hughes
McDonnell Boehnen Hulbert & Berghoff LLP
300 South Wacker Drive
Chicago, IL 60606

Attachment(s)

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Paper No. 6

THE KLINE LAW FIRM, P.C.
14910 Bonner Court
Morgan Hill, CA 95037-5925

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NOV 17 2003

OFFICE OF PETITIONS

In re Application of
Joseph et al.
Application No. 10/382,286
Filed: March 4, 2003
Attorney Docket No. 557.2
For: ELECTRICAL BUS WITH ASSOCIATED POROUS METAL HEAT SINK AND METHOD OF MANUFACTURING SAME

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

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

The petition is granted.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application after having been presented with the application papers.

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

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

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

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

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Paper No. 7

Kelly W. Arnold
1205 Coleman Ave.
Santa Clara, CA 95050

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NOV 17 2003

OFFICE OF PETITIONS

Letter

In re Application of :
Joseph et al. :
Application No. 10/382,286 :
Filed: March 4, 2003 :
Attorney Docket No. 557.2 :
For: ELECTRICAL BUS WITH ASSOCIATED :
POROUS METAL HEAT SINK AND :
METHOD OF MANUFACTURING SAME :

Dear Mr. Arnold:

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

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

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

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

cc: THE KLINE LAW FIRM, P.C.
14910 Bonner Court
Morgan Hill, CA 95037-5925

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Paper No. 4

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OFFICE OF PETITIONS

THE KLINE LAW FIRM, P.C.
14910 Bonner Court
Morgan Hill, CA 95037-5925

In re Application of
Joseph et al.
Application No. 10/382,286
Filed: March 4, 2003
Attorney Docket No. 557.2
For: ELECTRICAL BUS WITH ASSOCIATED POROUS METAL HEAT SINK AND METHOD OF MANUFACTURING SAME

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

This is a decision on the petition under 37 CFR 1.47(a), filed August 21, 2003.

The petition is **DISMISSED**.

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

A grantable petition under 37 CFR 1.47(a) requires

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

In addition to the above requirements, the signing inventors must sign the declaration on behalf of the non-signing inventor. See MPEP 409.03(a).

The instant petition fails to satisfy (1).

The petition states the non-signing inventor has refused to sign the declaration but fails to provide details concerning such refusal. Petitioner should note that when there is an express oral refusal, that fact, along with the time and place of the refusal, must be stated in an affidavit or declaration by the party to whom the refusal was made. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the affidavit or declaration. If the non-signing inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration.

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

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

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

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

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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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	: 7620109	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/382,311	: 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 **1272** 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
ALEXANDRIA, VA
WWW.USPTO.GOV

Mailed MAR 24 2004

In re Application of Christopher D. Wilsey Serial Number: 10/382,322 Filed: March 5, 2003 For: METHOD FOR DETERMINING THE CONCENTRATION OF AN ANALYTE IN A LIQUID SAMPLE USING SMALL VOLUME SAMPLES AND FAST TEST TIMES	:	DECISION ON PETITION UNDER M.P.E.P. 708.02 II

This is in response to the petition filed, March 5, 2003, requesting that the above-identified application be granted Special Status under Section 708.02, II of the M.P.E.P. and 37 CFR 1.102(d) (fee paid).

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

Marian C. Knode

Marian C. Knode, Special Program Examiner
Technology Center 1700

Woodard, Emhardt, Naughton,
Moriarty and McNett LLP
Bank One Center/Tower
111 Monument Circle, Suite 3700
Indianapolis IN 46204-5137

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WOODARD, EMHARDT, NAUGHTON,
MORIARTY AND MCNETT
BANK ONE CENTER/TOWER
111 MONUMENT CIRCLE, SUITE 3700
INDIANAPOLIS IN 46204-5137

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MAR 2 6 2007

OFFICE OF PETITIONS

In re Application of
Christopher D. Wilsey
Application No. 10/382,322
Filed: March 5, 2003
Attorney Docket No. 7404-473 BMID-9968DC-US

ON PETITION

This is a decision on the petition, filed March 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 February 8, 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

Karen Creasy
Petitions Examiner
Office of Petitions

---

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

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DIW Sep-08

DIGIMARC CORPORATION
9405 SW GEMINI DRIVE
BEAVERTON OR 97008

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SEP 10 2008

In re Application of	:	
McKinley et al.	:	
Application Number: 10/382359	:	ON PETITION
Filing Date: 03/04/2003	:	
Attorney Docket Number: P0806	:	

This is a decision on the petition to withdraw the holding of abandonment filed on July 28, 2008.

This application was held abandoned for failure to timely submit the issue and publication fees in response to the Notice of Allowance and Fee(s) Due mailed on March 27, 2008, which set a three (3) month statutory period for reply. Notice of Abandonment was mailed on July 23, 2008.

Petitioners request that the Office withdraw the holding of abandonment due to non-receipt of the Notice of Allowance and Fee(s) Due mailed on March 27, 2008. In support of the allegation that the Notice of Allowance and Fee(s) Due mailed on March 27, 2008 was never received, petitioners has submitted a copy of a docket record and provided a statement by registered patent practitioner Steven W. Stewart, stating that a search of the file jacket and docket records indicates that the March 27, 2008 Notice of Allowance was not received.

A review of the record indicates no irregularity in the mailing of the Notice of Allowance and Fee(s) Due mailed on March 27, 2008, and in the absence of any irregularity in the mailing, there is a strong presumption that the Notice of Allowance and Fee(s) Due mailed on March 27, 2008 was properly mailed to the address of record. This presumption may be overcome by a showing that the Notice of Allowance and Fee(s) Due mailed on March 27, 2008 was not in fact received.

MPEP 711.03(c) states, in pertinent part:

> 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 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.
>
> (emphasis added)

Petitioner has provided a copy of the docket record. The docket record supplied appears to be a master docket record and is being construed as such. Petitioner **must** inform the Office if this is an incorrect statement.

Accordingly, there was no abandonment in fact. The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The petition is **GRANTED.**

The application is being referred to the Technology Center Art Unit 2134 for remailing of the Notice mailed on March 27, 2008. The period for reply will be reset from the mailing date thereof.

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

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OCT 15 2008

OFFICE OF PETITIONS

In re Application of	:	
McKinley et al.	:	
Application Number: 10/382359	:	LETTER
Filing Date: 03/04/2003	:	
Attorney Docket Number: P0806	:	

This is a communication in reference to the "PETITION" filed on September 24, 2008.

The petition is **GRANTED**.

In response to the Decision Granting Petition mailed on September 10, 2008, petitioners have provided a master docket report.

Receipt of the docket report is acknowledged.

The application is being referred to the Technology Center Art Unit 2134 for further processing.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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WILLIAM J. JAMES
VAN PELT, YI & JAMES LLP
10050 N. FOOTHILL BLVD., SUITE 200
CUPERTINO, CA 95014

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SEP 21 2007
OFFICE OF PETITIONS

In re Patent No. 7,127,474 :
Issue Date: October 24, 2006 :
Application No. 10/382,362 : DECISION ON PETITION
Filed: March 5, 2003 :
Attorney Docket No. :
10010.938C4

This is a decision on the petition filed December 11, 2006, 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 petition is **GRANTED**.

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

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3218. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

Frances Hicks
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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LOWRIE, LANDO & ANASTASI, LLP
A2038
ONE MAIN STREET, SUITE 1100
CAMBRIDGE MA 02142

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NOV 03 2008

OFFICE OF PETITIONS

In re Application of	:	
Roland Kreutzer, et al.	:	
Application No. 10/382,395	:	DECISION ON PETITION
Filed: March 6, 2003	:	
Attorney Docket No. A2038-706140	:	

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

The petition is **GRANTED**.

The two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision.

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of July 18, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). A three (3) month extension of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is January 19, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal and fee; (2) the petition fee of $1,540; and (3) a proper 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.

This application is being referred to Technology Center AU 1635 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

Chris Bottorff
Petitions Examiner
Office of Petitions

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td

Mailed: 2-2-06

In re application of	:	
Arthur	:	DECISION ON
Serial No. 10/382,401	:	PETITION
Filed: March 3, 2003	:	
For: FUEL CELL SYSTEM INCLUDING AIR FLOW CONTROL		

This is a decision on the PETITION UNDER 37 CFR 1.181 TO DIRECT THE EXAMINER TO CLARIFY THE PROSECUTION RECORD

On June 29, 2005, the examiner made a restriction requirement. The restriction was between three groups and contained an election of species. The election of species requirement as set forth by the examiner required applicant to fully identify all disclosed species and list the corresponding claims to those species. Applicant responded to the requirement in a response filed on July 18, 2005. In the response, applicant elected a group but declined to elect a specie. In the next office action, the examiner withdrew the election of species requirement and stated that he took applicant's failure to elect a specie as an admission that all species covered by the claims would be obvious variants over each other. Applicant disputed this assertion in a response filed on October 24, 2005. The examiner maintained his position in a final rejection mailed November 2, 2005.

On December 29, 2005 the instant petition under 37 CFR 1.181 was filed to formally request that the examiner be directed to clarify the record as to the election of species and applicant's election of same.

DECISION

Section 809.02(a) of the MPEP states:

809.02(a) [R-3] Election of Species Required
Where restriction between species is appropriate (see MPEP § 808.01(a)) the examiner should send a letter including only a restriction requirement or place a telephone requirement to restrict (the latter being encouraged). See MPEP § 812.01 for telephone practice in restriction requirements.

Action as follows should be taken:
(A) Identify generic claims or indicate that no generic claims are present. See MPEP § 806.04(d) for definition of a generic claim.
(B) Clearly identify each (or in aggravated cases at least exemplary ones) of the disclosed species, to which claims are >to be< restricted. The species are preferably identified as the species of figures 1, 2, and 3 or the species of examples I, II, and III, respectively. In the absence of distinct figures or examples to identify the several species, the mechanical means, the particular material, or other distinguishing

characteristic of the species should be stated for each species identified. If the species cannot be conveniently identified, the claims may be grouped in accordance with the species to which they are restricted. Provide reasons why the species are independent or distinct.
(C) Applicant should then be required to elect a single disclosed species under 35 U.S.C. 121, and advised as to the requisites of a complete reply and his or her rights under 37 CFR 1.141.

Petitioner argues that the examiner's requirement for election of species was improper in that the examiner failed to clearly identify each of the disclosed species. It is also argued that the examiner failed to provide any reasons as to why any species are independent or distinct. This argument is persuasive. In the restriction requirement, the examiner merely states that applicant is requested to identify all of the disclosed species present in the application. This is clearly an improper practice in that it is the responsibility of the examiner to present the disclosed species upon which the requirement is based. Furthermore, the examiner is required to point out how the disclosed species are independent or distinct from each other. Because, the examiner failed to identify any species, he could not comply with the other requirement of showing independence or distinctness.

Applicant replied to the restriction requirement but objected to the election of species requirement. No election of species was made by applicant because the examiner did not provide a listing of the species present from which to elect from. The examiner took the position that in the absence of an election, applicant's failure to elect was an admission that the disclosed species were obvious variants. Petitioner urges that this was also improper based on the impropriety of the election of species requirement. This argument is also persuasive. Applicant clearly never made any admission that any disclosed species are obvious variants over each other. The position taken by the examiner with regards to this point was also improper.

Accordingly, because the election of species was improper and the examiner's position with respect to applicant's position was erroneous, the petition is **GRANTED.** The examiner is directed to send out a communication to applicant confirming that no admission was made by applicant that the disclosed species are obvious variants of each other. It does not appear that the examiner has used this purported admission to reject any of the claims, however this should also be confirmed in the aforementioned communication. Applicants time period continues to run from the final rejection mailed November 2, 2005.

JMStone

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

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

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Lainie E. Parker
Akzo Nobel Inc.
7 Livingstone Avenue
Dobbs Ferry, NY 10522-3408

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JUL 1 1 2005

OFFICE OF PETITIONS

In re Application of
Dove et al.
Application No. 10/382,418
Filed: March 6,2003
Attorney Docket No. AC) 2930 US

DECISION GRANTING PETITION

This decision is in response to "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR § 1.705(b)" timely[1] filed on November 8, 2004. Applicants' request that the patent term adjustment be changed from 5 days to 92 days.

Applicants' application for PTA is **GRANTED.** The Office will adjust the PTA determination at the time of the mailing of the notice of allowance from five (5) days to ninety-two (92) days.

Applicants assert that the correct amount at the time of the mailing of the notice of allowance is ninety two days. Applicants assert that the eighty seven days of applicant delay for failure to reply to the Office action within three months pursuant to 37 CFR 1.704(b) is in error. Applicants assert that they responded to the Office action on July 11, 2003.[2] Applicants assert that the response date of July 11, 2003 is within three months of the mail date of the Office action.[3]

Applicants arguments are well taken. Applicants responded within three months regardless of whether the actual date of receipt was July 11, 2003 or July 15, 2003. Accordingly, applicants did not fail to engage in any reasonable efforts to conclude prosecution of the application. The record reflects that the Office did fail to initially act upon the application within fourteen months of the filing of the application.[4] Accordingly, the proper amount of PTA at the time of the mailing of the application is ninety-two days (92-0=92).

After the mailing of this decision, the application will be forwarded to the Office of Patent

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[1]Issue fee paid on November 8, 2004.

[2]Applicants note that PALM shows that the date of receipt as July 15, 2003.

[3]The Notice to File Missing Parts was mailed on May 5, 2003.

[4]The application was filed on March 6, 2003. Accordingly, the Office had until May 6, 2004 to act upon the application. The Office did not act upon the application until August 6, 2004, a ninety-two day delay.

Publication for a prompt issuance of the patent. The Office notes that any delays in issuance of the patent beyond four months of the payment of the issue fee and other requirements being satisfied will be reflected in the notice of PTA provided with the issue notification letter which is mailed to applicants approximately three weeks prior to the issuance of the patent.

The Office acknowledges payment of the $200.00 application fee. No additional fees are required in deciding this application.

Any questions concerning this decision should be directed to Kery Fries, Senior Legal Advisor, Office of Patent Legal Administration, Office of Deputy Commissioner for Patent Examination Policy at 571-272-7757.

Kery A Fries
pe

Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

cc: Adjusted Pair Calculation

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PERKINS COIE LLP
P.O. BOX 2168
MENLO PARK CA 94026

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OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
John E. Shulze et al	:	
Application No. 10/382,426	:	
Filed: March 5, 2003	:	
Attorney Docket No. 38779-8001.US00	:	

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

The petition is **GRANTED**.

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

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

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

The examiner of Technology Center AU 3738 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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December 14, 2006

George E. Heibel
RANBAXY INC.
600 College Road East
Suite 2100
Princeton, NJ 08540

Patent No.: 6890957 B2
Application No.: 10/382442
Inventor(s): **Ravi Chandran, et al.**
Issued: **May 10, 2005**
Title: **LIQUID FORMULATION OF METFORMIN**

Re: Request for Certificate of Correction

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

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

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

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

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and

C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

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

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

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

Virginia Tolbert
For Cecelia Newman
Decisions & Certificate of Correction Branch
(703) 305-8309 or (703) **308-9390 ext 113**

vt

UNITED STATES PATENT AND TRADEMARK OFFICE

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RANBAXY INC.
600 COLLEGE ROAD EAST
SUITE 2100
PRINCETON NJ 08540

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MAY 25 2007

OFFICE OF PETITIONS

In re Patent No. 6,890,957	:	
Issue Date: May 10, 2005	:	
Application No. 10/382,442	:	ON PETITION
Filed: March 6, 2003	:	
Attorney Docket No. RLL-200.1US	:	

This is a decision on the petition filed January 29, 2007, under 37 CFR 3.81(b)[1] to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is granted.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3208. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

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

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

[1]See Official Gazette of June 22, 2004

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BAKER & DANIELS LLP
300 NORTH MERIDIAN STREET
SUITE 2700
INDIANAPOLIS IN 46204

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APR 1 8 2008

OFFICE OF PETITIONS

In re Patent No. 6,939,184 :
Issue Date: September 6, 2005 :
Application No. 10/382,447 : NOTICE
Filed: March 6, 2003 :
Attorney Docket No. BMI0004 :

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

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

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

This application no longer qualifies for small entity status. Accordingly, all future fees in this file must be paid at the large entity rate, absent further notification from a proper party of a change in status. ***See 37 CFR 1.27(c)(2).***

Inquiries related to this communication should be directed to the undersigned at (571) 272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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FISH & RICHARDSON P.C.
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

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OFFICE OF PETITIONS

In re Application of	:	
Hajime Kimura et al	:	
Application No. 10/382,467	:	ON PETITION
Filed: March 6, 2003	:	
Attorney Docket No. 12732-146001/US6272	:	

This is a decision on the petition filed September 2, 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 August 5, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

The correspondence filed September 2, 2005 is not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of John F. Hayden appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. However, if Mr. Hayden desires to receive correspondence regarding this file, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision is being mailed to Mr. Hayden, the petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

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

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

This matter is being referred to Technology Center AU 2816 for processing of the request for continued examination under 37 CFR 1.114.

Wan Laymon

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

cc: FISH & RICHARDSON, P.C.
1425 K STREET, N.W., 11TH FLOOR
WASHINGTON, DC 20005-3500

UNITED STATES 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 2, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : Hajime Kimura et al
Application No. : 10/382,467
Filed : March 6, 2003

The above-identified application has been assigned Patent No. 6,946,883 and an issue date of September 20, 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 September 20, 2005:

"All reference to Patent No. 6,946,883 to Hajime Kimura et al of Atsugi, JAPAN for DISPLAY AND METHOD OF DRIVING THE SAME appearing in the Official Gazette of Septembr 20, 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; MDW, Suite 04B03 (FAX-571-273-5468)
Deneise Boyd, MDE, Suite 03D39 (FAX-571-273-5124)
Mary Louise McAskill, South Tower, Suite 8C15(FAX 305-4372)
Niomi Farmer, South Tower, Suite 8C14 (FAX-305-4372)
Mary E. Johnson (Cookie), MDE, Suite 07C71 (FAX-571-273-0038)
Duane Davis (CDS), MDE, Suite 07D89
Tamara K. Greene, South Tower, Suite 08C13

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Alexandria, VA 22313-1450
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FISH & RICHARDSON P.C.
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

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DEC 11 2006

OFFICE OF PETITIONS

In re Application of	:	
Hajime Kimura et al	:	
Application No. 10/382,467	:	ON PETITION
Filed: March 6, 2003	:	
Attorney Docket No. 12732-146001/US6272	:	

This is a decision on the petition, filed December 8, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on September 12, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2816 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

---

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

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AUG 11 2009

OFFICE OF PETITIONS

FISH & RICHARDSON PC
PO BOX 1022
MINNEAPOLIS MN 55440-1022

In re Application of	:	
Kimura, et al.	:	
Application No. 10/382,467	:	ON PETITION
Filed: March 6, 2003	:	
Attorney Docket No. 12732-0146001	:	

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed May 27, 2009.

The petition is **GRANTED**.

This application was held abandoned for failure to timely file a response to the final Office action mailed July 31, 2008. This Office action set an extendable period for reply of three (3) months. Applicants filed a Notice of Appeal on January 30, 2009, made timely by including an authorization to charge a three month extension of time to counsel's deposit account. Nevertheless, the Office mailed a Notice of Abandonment on May 14, 2009, stating that no reply to the July 31, 2008 Office action had been received.

Petitioner contends that he did timely file a reply. In support, petitioner has included a copy of a USPTO Electronic Acknowledgment Receipt, dated September 25, 2008 and itemizing a reply.

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.

In view thereof, **THE HOLDING OF ABANDONMENT IS WITHDRAWN.**

As the three month extension of time for the January 30, 2009 Notice of Appeal was never charged, that fee has now been charged to Deposit Account No. 06-1050, as authorized.

The application is being forwarded to Group Art Unit 2816 for consideration of the Amendment filed September 25, 2008 (copy supplied with the instant petition). If the Examiner determines that the Amendment does not prima facie place the application in condition for allowance, then the Examiner is directed to enter the Notice of Appeal filed January 30, 2009, and the Appeal Brief filed July 30, 2009.

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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ROPES & GRAY LLP
PATENT DOCKETING 39/361
1211 AVENUE OF THE AMERICAS
NEW YORK NY 10036-8704

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MAR 3 1 2008

In re Application of

FRASER, Stuart A. et al.
Application No. 10/382,527
Filed: March 07, 2003
Attorney Docket No. **96-1007-1 C1**

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 February 19, 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 Laurence Rogers on behalf of all attorneys of record who are associated with customer No. 64558. All attorneys/agents associated with the Customer Number 64558 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 November 28, 2007 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **STUART A. FRASER**
18 MAPLE WAY
ARMONK, NY 10504

cc: **DEAN P. ALDERUCCI**
CANTOR FITZGERALD, L.P.
110 EAST 59TH STREET (6TH FLOOR)
NEW YORK, NY 10022

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YUKIKO IWATA
SHELL OIL COMPANY
LEGAL - INTELLECTUAL PROPERTY
P.O. BOX 2463
HOUSTON TX 77252-2463

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MAR 1 4 2005

OFFICE OF PETITIONS

In re Application of	:	
Charles Lee Edwards	:	
Application No. 10/382,544	:	ON PETITION
Filed: March 6, 2003	:	
Attorney Docket No. TH2234 (US)	:	

This is a decision on the petition filed October 12, 2004, which is being treated as a petition under 37 CFR 1.78(a)(6), to accept an unintentionally delayed claim under 35 U.S.C.§ 119(e) for the benefit of prior-filed provisional Application No. 60/405,552, filed August 23, 2002.

The petition is **DISMISSED AS MOOT**.

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

Petitioner has submitted on October 12, 2004, an amendment to the first sentence of the specification following the title to include a reference to prior-filed provisional Application No. 60/405,552, filed August 23, 2002.

The instant pending nonprovisional application was filed on March 6, 2003, and was pending at the time of filing of the instant petition. While a reference to the prior-filed provisional application was not included in an ADS or in the first sentence of the specification following the title, 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)(6) is not included in the first sentence of the specification or in an ADS but does appear either in the oath or declaration or a transmittal letter filed with the application and the Office notes the claim for priority, no petition will be required to accept a late claim for priority. This is because the application would have been scheduled for publication on the basis of the information concerning the claim submitted elsewhere in the application within the time period set forth in 37 CFR 1.78(a)(5). However, on the other hand, if the USPTO does not note the claim for priority to the provisional application in the oath or declaration or transmittal letter submitted with the

application, a petition will be required to accept a late claim for priority under 37 CFR 1.78(a)(6).[1] In the instant case, the Office noted the claim for priority of provisional Application No. 60/405,552, in the transmittal letter filed with the application, as shown by its inclusion on the filing receipt.

Any questions concerning this decision on petition may be directed to Karen Creasy at (571)272-3208.

This matter is being referred to Patent Publication.

Karen Creasy

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

[1] Note 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

UNITED STATES PATENT AND TRADEMARK OFFICE

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NEIL A. STEINBERG
2665 MARINE WAY, SUITE 1150
MOUNTAIN VIEW, CA 94043

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JUN 30 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Muralidharan P. Arikara et al :
Application No. 10/382,549 :
Filed: March 5, 2003 :
Attorney Docket No. JADO-003/01US :

This is a decision on the petition under 37 CFR 1.137(b), filed May 31, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed July 13, 2004, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on October 14, 2004.

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

This matter is being referred to Technology Center AU 2838 for further processing.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/382,549	03/05/2003	Muralidharan P. Arikara	JADO-003/01US	7316

37362 7590 08/25/2005

NEIL A. STEINBERG
2665 MARINE WAY, SUITE 1150
MOUNTAIN VIEW, CA 94043

EXAMINER
TSO, EDWARD H

ART UNIT	PAPER NUMBER
2838	

DATE MAILED: 08/25/2005

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

AUG 25 2005

In re Application of ARIKARA ET AL.	:	
Appl. No.: 10/382,549	:	**WITHDRAWAL FROM**
Filed: March 05, 2003	:	**ISSUE**
For: FAULT TOLERANT FUEL CELL NETWORK POWER SYSTEM	:	*37 CFR 1.313*

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

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

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

The application is being forwarded to the examiner for action.

Richard K. Seidel
Director
Patent Examining Technology Center 2800

NEIL A. STEINBERG
2665 MARINE WAY, SUITE 1150
MOUNTAIN VIEW, CA 94043

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

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FEB 01 2005

OFFICE OF PETITIONS

In re Application of	:	
Shinichi Terashita	:	
Application No. 10/382,574	:	ON PETITION
Filed: March 7, 2003	:	
Attorney Docket No. 70404.2	:	

This is a decision on the petition, filed January 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 December 22, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2826 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

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

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SHARP KABUSHIKI KAISHA
C/O KEATING & BENNETT, LLP
8180 GREENSBORO DRIVE
SUITE 850
MCLEAN VA 22102

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JAN 1 0 2007

OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Shinichi Terashita	:	
Application No. 10/382,574	:	
Filed: March 7, 2003	:	
Attorney Docket No. 70404.2	:	

This is a decision on the petition, filed December 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 October 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 the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2826 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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

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MICHAEL DE ANGELI
60 INTREPID LANE
JAMESTOWN, RI 02835

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JAN 2 6 2006

OFFICE OF PETITIONS

In re Application of :
Alex J. Severinsky et al :
Application No. 10/382,577 : ON PETITION
Filed: March 7, 2003 :
Attorney Docket No. PAICE201.DIV :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 19, 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 July 1, 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 3616 for processing of the request for continued examination under 37 CFR 1.114.

Wan Laymon
Petitions Examiner
Office of Petitions

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 6/24/08

Paper No.: —

TO SPE OF : ART UNIT 2193

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/382578 Patent No: 7171438 B2

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

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within 7 days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within 7 days, to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

VIRGINIA TOLBERT
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

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

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

Comments: ONLY THE CHANGE OF COL. 2, LINES 11-12 ARE ENTERED. ALL OTHER CHANGES ALTER THE SCOPE OF THE CLAIMS.

LEWIS A. BULLOCK, JR.
SUPERVISORY PATENT EXAMINER
SPE

2193
Art Unit

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. : 7,171,438

APPLICATION NO.: 10/382,578

ISSUE DATE : March 7, 2003

INVENTOR(S) : Mayan Moudgill and Vladimir Kotylar

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

Column 2, line 10, "only values of z that reach S assigns SATMAX to z when"
should read -- only values of z that reach S assigns SATMAX to v when --

Column 2, lines 11-12, "c) the only values of z that reach S assigns SATMIN to z if underflow has occurred, and d) the"
should read -- b) the only values of z that reach S assigns SATMIN to z if underflow has occurred, and c) the --

Column 2, lines 13-14, " only values of z that reaches S is from the basis statement A if no underflow and if no"
shoul read -- only values of z that reaches S assign z from the basis statement A to v if no underflow and if no --

Column 15, line 27, Claim 1, "to be assigned to z when"
should read -- to be assigned to v when --

Column 15, line 29, Claim 1, "assigned to z if underflow"
should read -- assigned to v if underflow --

Column 15, line 30, Claim 1, "that reach S are from"
should read -- that reach S assign z from --

Column 15, lines 30-31, Claim 1, "only values of z that reaches S is from the basis statement A if no underflow and no overflow has occurred. Finally the "
should read -- only values of z that reaches S assign z from the basis statement A to v if no underflow if no underflow and no overflow has occurred. Finally the --

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

Barnes & Thornburg LLP
750 17th Street, NW Suite 900
Washington, DC 20006-4675

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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10-18-07

TO SPE OF : ART UNIT 2813

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/382544 Patent No.: 6835643

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

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

Should COFC 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. _____

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

2813

Art Unit

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United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
www.uspto.gov

IBM CORPORATION
INTELLECTUAL PROPERTY LAW DEPT.
P.O. BOX 218
YORKTOWN HEIGHTS, NY 10598

Mail Date: 04/21/2010

Applicant	: Toshiro Takase	: DECISION ON REQUEST FOR
Patent Number	: 7660844	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/382,610	: 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 **1028** 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

James E. Ledbetter, Esq.
Stevens, Davis, Miller & Mosher, L.L.P.
Suite 850
1615 L Street, NW
Washington, DC 20036

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MAY 17 2006

OFFICE OF PETITIONS

In re Application of
Matsuo et al.
Application No. 10/382,617
Filed: March 7, 2003
Attorney Docket No. JEL 29814F

ON PETITION

This is a decision on the request under 37 CFR 3.81(b),[1] filed July 19, 2005, to correct the assignee's name on the Fee(s) Transmittal form PTOL-85(b) so that the Letters Patent will issue to the assignee. The petition was recently forwarded to the Office of Petitions for a decision on the merits. The Office sincerely apologizes for any inconvenience.

Petitioner states that the correct assignee's name is Panasonic Communications Co., Ltd. and that an incorrect assignee's name was mistakenly listed 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 Panasonic Communications Co., Ltd..

37 CFR 3.81(b), effective June 25, 2004, reads:

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

The request under 37 CFR 3.81(b) is not accompanied by a request for a certificate of correction (and fee) as required by 3.81(b).

---

[1] *See* Official Gazette of June 22, 2004

A review of Office database assignment records reflects that an assignment to Panasonic Communications Co., Ltd.. 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 Panasonic Communications Co., Ltd. was the assignee of record at the time of issuance of the application into a patent. *See* 35 U.S.C. § 152.

Accordingly, the request is **dismissed** without prejudice upon the filing of a renewed petition under 37 CFR 3.81(b), a request for a certificate of correction and a $100.00 fee.

Alternatively, if petitioner desires to have the correct assignee data appear on the front page of the Letters Patent, petitioner may 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)).

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

By mail: Mail Stop Petition
Commissioner for Patents
Box 1450
Alexandria, VA 22313

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

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

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

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MAY 1 3 2005
OFFICE OF PETITIONS

In re Patent No. PP14,630	:	
Issue Date: March 23, 2004	:	
Application No. 10/382,657	:	ON PETITION
Filed: March 7, 2003	:	
Attorney Docket No. 018844-0301	:	

This is a decision on the paper filed April 23, 2004, which is being treated as a petition under 37 CFR 1.183, to waive the rules and accept the deletion of the assignee on the front page of the above-identified patent.

The petition is **granted**.

Telephone inquires concerning this matter may be directed to Wan Laymon at (571) 272-3220. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

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

Wan Laymon
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

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

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MAY 17 2005

OFFICE OF PETITIONS

In re Patent No. PP14,630	:	
Issue Date: March 23, 2004	:	
Application No. 10/382,657	:	ON PETITION
Filed: March 7, 2003	:	
Attorney Docket No. 018844-0301	:	

This is a decision on the paper filed April 23, 2004, which is being treated as a petition under 37 CFR 3.81(b)[1] to accept the deletion of the assignee on the front page of the above-identified patent.

The petition is **granted**.

The Office letter mailed May 13, 2005, incorrectly stated that the petition treated as a petition under 37 CFR 1.183.

In view of the above, the Office letter mailed May 13, 2005 is hereby **VACATED**.

Telephone inquires concerning this matter may be directed to Wan Laymon at (571) 272-3220. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

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

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

[1] *See* Official Gazette of June 22, 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Burns, Doane, Swecker & Mathis, L.L.P.
P.O. Box 1404
Alexandria, VA 22313-1404

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FEB 14 2006

OFFICE OF PETITIONS

In re Application of :
Niels Damkjaer :
Application No. 10/382,661 :
Filed: March 7, 2003 :
Attorney Docket No. 027651-165 :

DECISION ON PETITION

This is a decision on the "Petition Under 37 C.F.R. § 1.181(a) Requesting Withdrawal Of The Holding Of Abandonment," filed June 8, 2005. This petition was recently forwarded to the Office of Petitions for a decision on the merits. The Office sincerely apologizes for any inconvenience.

On October 15, 2004, the Office mailed a nonfinal Office action, which set a three-month shortened statutory period for reply. In the apparent absence of a timely filed response, the application was held abandoned on January 16, 2005. A Notice of Abandonment was mailed on May 23, 2005.

In the petition, applicant asserted that the practitioner did not receive the nonfinal Office action. Specifically, the practitioner asserted that based on a review of the information contained in the PAIR Database for this application, the nonfinal Office action was returned to the USPTO as undeliverable on October 19, 2004. In support of this assertion, the practitioner submitted a copy of the information contained in the PAIR Database for this application and a copy of the cover page of the nonfinal Office action mailed on October 15, 2004, and labeled as received by the USPTO on October 19, 2004. Furthermore, the practitioner stated that he reviewed the file jacket for this application, which confirmed that he did not receive the nonfinal Office action.

A review of the record indicates that the USPTO mailed the nonfinal Office action to the correct correspondence address; however, it was inexplicably returned to the USPTO. For this reason, the practitioner did not receive the nonfinal Office action of October 15, 2004.

The petition to withdraw the holding of abandonment is **granted**. The Notice of Abandonment was mailed in error and is hereby withdrawn. The application is restored to pending status. As the practitioner did not receive the original nonfinal Office action of October 15, 2004, **Technology Center Art Unit 3727 shall remail the nonfinal Office action and restart the period for response.**

This matter is being referred to Technology Center Art Unit 3727 for further action consistent with this decision.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3211. Any other questions regarding the status of the application or the examination process should be directed to the Technology Center.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20090302

DATE : February 25, 2009

TO SPE OF : ART UNIT 2628

SUBJECT : Request for Certificate of Correction on Patent No.: 7453464 B1

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - 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:

/XIAO M. WU/
Supervisory Patent Examiner, Art Unit 2628

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : April 21, 2008

TO SPE OF : ART UNIT 2625

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/382683 Patent No.: 7319538 B1

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 Director's/SPE response to 571-270-9580

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.

Comments: _____

SPE

2625
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

ALTERA LAW GROUP
6500 CITY WEST PARKWAY
SUITE 100
MINNEAPOLIS, MN 55344-7704

COPY MAILED
MAY 1 2 2004
OFFICE OF PETITIONS

In re Application of :
Poongyeub Lee et al :
Application No. 10/382,719 : NOTICE
Filed: March 5, 2003 :
Attorney Docket No. 11896US.00 :

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

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

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

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

This file is being forwarded to Publishing Division to await a reply to the Notice of Allowance and Fee(s) Due mailed March 17, 2004.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: —

DATE : 11/8/07

TO SPE OF : ART UNIT 2173

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/382720 Patent No: 7254783 B2

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

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within 7 days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within 7 days, to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

VIRGINIA TOLBERT
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

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

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

Comments: NONE

STEPHEN HONG
SUPERVISORY PATENT EXAMINER
SPE

2173
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

SCANI **Please forward case and paper to address shown below.**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 4/11/07

Paper No.: _____

TO SPE OF : ART UNIT 2116

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/382723 Patent No.: 7191329

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

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

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

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

Thank You For Your Assistance

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

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

Comments: No error is presented. A paragraph is only reformatted to break-down the same limitation. No correction is therefore required.

Thanks,

SPE

2116
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, DC 20231

1/15/09

Patent No. :7191329
Inventor(s) :Richard C. Murphy
Issued : 3/13/2007
Title : AUTOMATED RESOURCE MANAGEMENT USING PERCEPTRON PREDICTION
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 by the SPE that no error is presented. A paragraph is only reformatted to break-down the same limitation. No correction is therefore required. 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

PARK, VAUGH & FLEMING LLP
2820 Fifth Street
DAVIS, CA 95618

HR/MD

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Alexandria, VA 22313-1450
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JUN 11 2007
TECHNOLOGY CENTER 3600

Royal W. Craig
OBER, KALER
120 East Baltimore Street
Baltimore MD 21202

APPLICANT: Paul Thomas Horn
SERIAL NO. 10/382,735 :PETITION TO INVOKE
FILED: March 5, 2003 :SUPERVISORY AUTHORITY
DOCKET # 027689.077510

FOR: MAGAZINE CLIP EXTERIOR HOUSING SYSTEM

This is in response to the petition filed on May 10, 2007 for review of the examiners communication dated March 23, 2007.

The petition is GRANTED.

FACTS

On May 11, 2005 applicant filed an Appeal Brief.

On July 27, 2005 a notice of defective brief was mailed signed by the examiner. The notice indicated that the brief was defective with respect to 37 CFR 41.37(c), 37 CFR 41.37(c)(1)(v), 37 CFR 41.37 (c)(1)(iii), 37 CFR 41.37(c)(1)(v), 37 CFR 41.37(c)(1)(vi) and 37 CFR 41.37(c)(1)(vii).

On August 29, 2005, applicant filed a second Appeal Brief.

On May 30, 2006, a second notice of defective brief was mailed, signed by the examiner. The notice indicated that the brief was defective with respect to 37 CFR 41.37(c) and 37 CFR 41.37(c)(1)(ix). The notice restarted the period for response.

On July 1, 2006, applicant filed a third Appeal Brief.

On September 26, 2006 a third notice of defective brief was mailed, signed by the examiner. The notice indicated that the brief was defective with respect to 37 CFR 41.37(c) and 37 CFR

41.37(c)(1)(ix). The notice additionally included remarks by the examiner regarding the specific issue under the latter issue. The notice restarted the period for response.

On October 19, 2006, applicant filed a fourth Appeal Brief.

On November 7, 2006 a forth notice of defective brief was mailed by an appeals specialist indicating that the brief was not signed.

On December 7, 2006 applicant filed a fifth Appeal Brief.

On March 23, 2007, a fifth notice of defective Appeal Brief was mailed. The notice indicated that the Briefs of 10/19/06 and 12/7/06 did not correct the errors, apparently with respect to 37 CFR 41.37(c)(1)(ix), of the previously filed briefs. The notice further indicated that un-entered evidence, such as dictionary definitions is not permitted in the brief.

On May 10, 2007, the instant petition was filed.

DISCUSSION

After discussing the matter with the examiner as well as an Appeal Conference Specialist, and with respect to the 2nd, 3rd and 5th notice of defective brief, the notices were sent because of the fact that applicant had not identified the U.S. patents in the Evidence Appendix. This requirement was mandated by the Board of Appeals to the examining staff during this time period. Recently, the Board of Appeals has indicated that U.S. Patents are no longer required in the Evidence Appendix.

Therefore, the Appeal Brief filed on December 7, 2006 is deemed proper. However, in light of the brief filed on March 23, 2007, it is unclear if applicant intends to pursue the dictionary definition in the brief. Therefore, applicant must file an amended appeal within ONE MONTH or 30 days from the mailing date of this decision, whichever is longer. Extensions of time of this period may be granted under 37 CFR 1.136. Applicant is reminded that any reply must be responsive to the comment on the notice mailed March 23, 2007, with respect to the non-entry of the dictionary definition.

Any question concerning this decision should be referred to SPE Michael Carone at 571-272-6873.

Donald Hajec
Director, TC 3600

UNITED STATES 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

Weiss & Moy
4204 North Brown Avenue
Scottsdale, AZ 85251

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FEB 1 0 2004

OFFICE OF PETITIONS

In re Application of	:	
Erik Orwoll	:	
Application No. 10/382,751	:	ON PETITION
Filed: March 5, 2003	:	
Attorney Docket No. 3838P2448	:	

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

The petition is granted.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers mailed April 29, 2003, which set a period for reply of two-months. No extensions of time under the provisions of 37 CFR 1.136 have been obtained. Accordingly, the application became abandoned on June 30, 2003.

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

Telephone inquiries concerning this decision should be directed to Latrice Bond at (703) 308-6911.

Latrice Bond

Latrice Bond
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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REED SMITH
TWO EMBARCADERO CENTER
SUITE 2000
SAN FRANCISCO, CA 94111

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OFFICE OF PETITIONS

In re Application of	:
Arthur Berman	: DECISION ON PETITIONS
Application No. 10/382,766	: UNDER 37 CFR 1.78(a)(3) AND
Filed: March 5, 2003	: 37 CFR 1.183
Attorney Docket No. 356508.01001	:

This is a decision on the petition under 37 CFR 1.17(a)(3), filed November 21, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of the prior-filed nonprovisional Application No. 10/342,219. In view of the request in the petition to waive the surcharge fee, this also being treated under 37 CFR 1.183 requesting wavier of 37 CFR 1.78(a)(3) "as that rule operates in conjunction with 37 CFR 1.17(t)."

The petition considered under 37 CFR 1.78(a)(3) is **DISMISSED**.

The petition considered under 37 CFR 1.183 is **DISMISSED**.

WITH RESPECT TO THE PETITION UNDER 37 CFR 1.78(a)(3)

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

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

The petition lacks items (1) and (3) above.

As to item (1), the amendment submitted concurrently with the instant petition as drafted is unacceptable and, therefore, is not considered a proper reference under 37 CFR 1.78(a)(2)(i). In this regard, the amendment is physically part of the instant petition and, as such, does not comply with 37 CFR 1.121, 1.52, or 1.4(c). Note that 37 CFR 1.121 states that amendments are made by filing a paper, in compliance with § 1.52, directing that specified amendments be made. The pertinent section of 37 CFR 1.52 states that the claim (in this case, the claim for priority), must commence on a separate physical sheet. 37 CFR 1.4(c) states that each distinct subject must be contained in a separate paper since different matters may be considered by different branches of the United States Patent and Trademark Office.

In view of the above, the amendment to add a priority claim to the first line of the specification, which is physically embedded in the instant petition, is not acceptable.

As to item (3), 37 CFR § 1.78(a)(3)(iii) requires a statement that "the entire delay between the date the claim was due under 37 CFR § 1.78(a)(2)(ii) and the date the claim was filed was unintentional." The petition lacks this statement. **Accordingly, a statement of unintentional delay in compliance with 37 CFR 1.78(a)(3)(iii) must be submitted**.

Accordingly, before the petition under 37 CFR 1.78(a)(3) can be granted, a renewed petition under 37 CFR 1.78(a)(3) and an amendment to correct the above matters is required.

WITH RESPECT TO WAIVER OF THE SURCHARGE REQUIRED BY 37 CFR 1.78(a)(3)(ii) AND 37 CFR 1.17(t).

Petitioner requests under 37 CFR 1.183 waiver of the applicable surcharge under 37 CFR 1.78(a)(3)(ii) for the acceptance of an unintentionally delayed claim for priority under 35 U.S.C. § 120 as set forth in 37 CFR 1.17(t). In this regard, petitioner states that the fee should be waived since "[a]pplicants clearly indicated a claim of priority in Applicants' specification at an appropriate location."

APPLICABLE RULE

37 CFR 1.78(a)(2)(i), (ii) and (iii) provides:

> (2)(i) Except for a continued prosecution application filed under § 1.53(d), any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior filed copending nonprovisional applications or international applications designating the United States of America must contain or be amended to contain a reference to each such prior application, identifying it by application number (consisting of the series code and serial number) or international application number and international filing date and **indicating the**

relationship of the applications. Cross references to other related applications may be made when appropriate (see § 1.14).

(ii) This reference must be submitted during the pendency of the later-filed application. If the later-filed application is an application filed under 35 U.S.C. 111(a), this reference must also be submitted within the later of four months from the actual filing date of the later-filed application or sixteen months from the filing date of the prior-filed application. If the later-filed application is a nonprovisional application which entered the national stage from an international application after compliance with 35 U.S.C. 371, this reference must also be submitted within the later of four months from the date on which the national stage commenced under 35 U.S.C. 371(b) or (f) in the later-filed international application or sixteen months from the filing date of the prior-filed application. These time periods are not extendable. Except as provided in paragraph (a)(3) of this section, the failure to timely submit the reference required by 35 U.S.C. 120 and paragraph (a)(2)(i) of this section is considered a waiver of any benefit under 35 U.S.C. 120, 121, or 365(c) to such prior-filed application. The time periods in this paragraph do not apply if the later-filed application is:

(A) An application for a design patent;
(B) An application filed under 35 U.S.C. 111(a) before November 29, 2000; or
(C) A nonprovisional application which entered the national stage after compliance with 35 U.S.C. 371 from an international application filed under 35 U.S.C. 363 before November 29, 2000.

(iii) If the later-filed application is a nonprovisional application, the reference required by this paragraph must be included in an application data sheet (§ 1.76), or the specification must contain or be amended to contain such reference in the first sentence following the title.

(iv) The request for a continued prosecution application under § 1.53(d) is the specific reference required by 35 U.S.C. 120 to the prior-filed application. The identification of an application by application number under this section is the identification of every application assigned that application number necessary for a specific reference required by 35 U.S.C. 120 to every such application assigned that application number.

(3) If the reference required by 35 U.S.C. 120 and paragraph (a)(2) of this section is presented in a nonprovisional application after the time period provided by paragraph (a)(2)(ii) of this section, the claim under 35 U.S.C.

120, 121, or 365(c) for the benefit of a prior-filed copending nonprovisional application or international application designating the United States of America may be accepted if the reference identifying the prior-filed application by application number or international application number and international filing date was unintentionally delayed. A petition to accept an unintentionally delayed claim under 35 U.S.C. 120, 121, or 365(c) for the benefit of a prior-filed application must be accompanied by:

(i) The reference required by 35 U.S.C. 120 and paragraph (a)(2) of this section to the prior-filed application, unless previously submitted;

(ii) The surcharge set forth in § 1.17(t); and

(iii) A statement that the entire delay between the date the claim was due under paragraph (a)(2)(ii) of this section and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

37 CFR 1.183 states that:

In an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Director or the Director's designee, *sua sponte*, or on petition of the interested party, subject to such other requirements as may be imposed. Any petition under this section must be accompanied by the petition fee set forth in § 1.17(h).

MPEP Section 201.06(c) states:

Unless an application is submitted with a statement that the application is a continuation or divisional application, see 37 CFR 1.78(a)(2), the Office will process the application as a new non-continuing application. Applicants are advised to clearly designate any continuation, divisional, or continuation-in-part application as such by submitting a reference to the prior-filed application with the appropriate relationship (i.e., continuation, divisional, or continuation-in-part) in compliance with 37 CFR 1.78(a) in the first sentence(s) of the specification or in an application data sheet **to avoid the need for a petition to accept an unintentionally delayed claim under 37 CFR 1.78(a) and the surcharge set forth in 37 CFR 1.17(t)**, and the issuance of a filing receipt that does not indicate that the application is a continuation, divisional, or continuation-in-part. See MPEP § 201.11.

OPINION

In order to grant any petition under 37 CFR 1.183, petitioner must show (1) that this is an extraordinary situation where (2) justice requires waiver of the rule. In re Sivertz, 227 U.S.P.Q. 255, 256 (Comm'r Pat. 1985). Petitioner has not shown that either condition exists in this case.

The circumstances of this case do not demonstrate an extraordinary situation, much less one where justice requires waiver of the rules. The failure to timely submit a proper reference to the claim for priority of the earlier application within the time period set forth in 37 CFR 1.78(a)(ii) was a circumstance entirely within petitioner's control, and could have been avoided by the exercise of reasonable care and diligence. Equitable powers should not be invoked to excuse the performance of a condition by a party that has not acted with reasonable, due care and diligence. U.S. v. Lockheed Petroleum Services, 709 F.2d 1472, 1475 (Fed. Cir. 1983). Furthermore, since the USPTO did not cause or contribute to petitioner's filing delay, this case is even further removed from consideration as one where "justice requires" equitable relief. See Helfgott & Karras, P.C. v. Dickinson, 209 F.3d 1328, 54 USPQ2d 1425 (Fed. Cir. 2000). Further, petitioner's failure to comply with the requirements of the rules or procedures before the USPTO is not deemed to be an extraordinary situation that would warrant waiver of the rules or procedures under 37 CFR 1.183. See Honigsbaum v. Lehman, 903 F. Supp. 8, 37 USPQ2d 1799 (D.D.C. 1995).

Petitioner overlooks that his failure to properly and timely claim the benefit of the earlier filed application under 35 U.S.C. § 120 constituted a *waiver* of his right to claim such benefit of priority. *See* 35 U.S.C. § 120 ("the Director may consider the failure to submit such [a claim] within that time period as a waiver of any benefit under this section"); 37 CFR 1.78(a)(2)(ii); *Cong. Rec.* S14719 (Nov. 17, 1999). Fortunately for petitioner, however, he may now seek reinstatement of his unintentionally waived right, subject, however, to payment of the very surcharge of which petitioner now complains. See 35 U.S.C. § 120, last sentence; 37 CFR 1.78(a)(3); *Cong. Rec.*, supra. That is, since petitioner now desires to be entitled to the potential benefits of the earlier application via § 120, then petitioner must also accept the consequences attendant to that action. *See* Abbott Laboratories v. Novopharm Ltd., 38 USPQ2d 1309, 1312 (D.C. N. Il. 1996), *aff'd* 104 F.3d. 1305, 41 USPQ2d 1535 (Fed. Cir. 1997).

For the above-stated reasons, petitioner has not demonstrated that there exists an extraordinary situation where justice requires waiver of the surcharge under 37 CFR 1.17(t). Accordingly, the petition under 37 CFR 1.183 must be dismissed.

As authorized, the $400 fee for the petition under 37 CFR 1.183 will be charged to petitioner's Deposit Account No. 50-2603.

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

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

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

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

Any questions concerning this matter may be directed to Wan Laymon at (571) 272-3220.

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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REED SMITH, LLP
TWO EMBARCADERO CENTER
SUITE 2000
SAN FRANCISCO CA 94111

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OCT 1 0 2006
OFFICE OF PETITIONS

In re Application of	:	
Berman, et al.	:	
Application No. 10/382,766	:	DECISION ON PETITION
Filed: March 5, 2003	:	TO WITHDRAW
Attorney Docket No. 356508.01001	:	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 14, 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 Doyle B. Johnson on behalf of all attorneys of record who are associated with this application.

All attorneys/agents associated with this application have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: ARTHUR BERMAN
10440 BUBB ROAD
SUITE B
CUPERTINO, CA 95014

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/382,766	03/05/2003	Arthur Berman	356508.01001

CONFIRMATION NO. 8218

OC000000020703798

OC000000020703798

58076
REED SMITH, LLP
TWO EMBARCADERO CENTER
SUITE 2000
SAN FRANCISCO, CA 94111

Date Mailed: 10/04/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/14/2006.

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

April M Wise

APRIL M WISE
OP (571) 272-1642

FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

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HOGAN & HARTSON L.L.P.
500 S. GRAND AVENUE
SUITE 1900
LOS ANGELES, CA 90071-2611

MAILED
APR 0 4 2005
Technology Center 2100

In re Application of: SUZUKI, et al.
Application No. 10/382,803
Filed: March 6, 2003
For: DISK SUBSYSTEM

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

This is a response to the petition filed January 31, 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.

3/31/05

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

SDL: 3/21/2005

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1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA VA 22314

MAIL

JUL 0 5 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
KAWAGUCHI, MASAHIRO, et al. :
Application No. 10/382,804 :
Filed: March 6, 2003 :
For: **DISK CONTROL APPARATUS AND ITS CONTROL METHOD** :

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition filed July 15, 2004 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

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

The petitioner meets all the above-listed requirements. Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant. The application file is being forwarded to the examiner for appropriate action in due course.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

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

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DEC 0 3 2004

OFFICE OF PETITIONS

In re Application of :
Arya Reza Behzad :
Application No. 10/382,811 :
Filed: March 6, 2003 :
Attorney Docket No. 49233/PAN/B600 :

ON PETITION

This is a decision on the petition, filed November 29, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on October 25, 2004, using a Certificate of Mailing or Transmission under 37 CFR 1.8 dated October 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 relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being forwarded to Technology Center AU 2816 for further processing of the request for continued examination under 37 CFR 1.114.

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

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

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GRACE J FISHEL
11970 BORMAN DRIVE
SUITE 220
ST. LOUIS MO 63146

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SEP 0 8 2004

OFFICE OF PETITIONS

In re Application of	:
Pritchett et al.	:
Application No. 10/382,813	: DECISION GRANTING PETITION
Filed: 6 March, 2003	:
Attorney Docket No. PHW 8790	:

This is a decision on the petition, filed on 23 August, 2004, under 37 CFR 1.137(f) which is treated as a petition to revive the above-identified nonprovisional application under the unintentional provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

Petitioner states that the present nonprovisional application is the subject of a foreign or international application filed on 17 February, 2004. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

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

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

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

The present petition has been found to be in compliance with 37 CFR 1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. It is noted that petitioner filed a Request to Rescind the Nonpublication Request on 23 August, 2004. A corrected filing receipt showing the projected publication date of 16 December, 2004, is enclosed for petitioners' reference

This decision is being forwarded to Technology Center 3700 for further processing.

Any inquiries concerning this decision may be directed to the undersigned at 703.308.6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: Corrected Filing Receipt

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FOX ROTHSCHILD, LLP
997 LENOX DRIVE
LAWRENCEVILLE NJ 08648

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OFFICE OF PETITIONS

In re Application of	:	
William F. McKay et al	:	
Application No. 10/382,844	:	DECISION GRANTING PETITION
Filed: March 7, 2003	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 48170.00037	:	

This is a decision on the petition under 37 CFR 1.137(b), filed February 5, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an RCE and an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Final Rejection of May 17, 2006, is accepted as having been unintentionally delayed.

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

This matter is being referred to Technology Center AU 1633.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

O I P E
FEB 0 5 2007
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of: McKay et al.	
Application No.: 10/382,844	Group Art Unit: 1633
Filed: March 07, 2003	Examiner: Sumesh Kaushal, Ph.D.
For: Methods of Inducing the Expression of Bone Morphogenetic Proteins (BMPS) and Transforming Growth Factor-Beta Proteins (TGF-BETA) in Cells.	

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

PETITION TO REVIVE THE INSTANT APPLICATION UNDER 37 C.F.R. § 1.137 (b) AS HAVING BEEN ABANDONED DUE TO UNINTENTIONAL DELAY

Dear Sir:

Pursuant to 37 C.F.R. § 1.137 (b), Applicants are filing this petition for the revival of the instant application in response to the Notification of Abandonment dated October 10, 2006.

BACKGROUND

On May 17, 2006, a Final Office Action was mailed to Elmore Patent Law Group, PC, attorneys of record at the time.

On July 26, 2006, the Applicants filed the Power of Attorney and Correspondence Address Indication Form to transfer the power of attorney in this application to Gerry P. Norton of Fox Rothschild, LLP.

On August 7, 2006, the power of attorney was transferred in this application to Fox Rothschild, LLP from Elmore Patent Group, PC. Neither USPTO nor Elmore Patent Group notified Fox Rothschild of the pending Final Office Action.

On November 17, 2006, the time period for reply expired six months after mailing the Final Office Action causing this application to become abandoned.

05/03/2007 CKHLOK
00000040 501943 10382844
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02/06/2007 HVUONG1 00000040 501943 10382844
02 FC:1454 1370.00 DA

On January 11, 2007, the Notice of Abandonment was mailed to Fox Rothschild, LLP. It was received on January 12, 2007.

DISCUSSION

Applicant states that the entire delay in filing the required reply from the due date of the required reply until the filing of a grantable petition under 37 C.F.R. § 1.137(b) was unintentional. (See Form PTO/SB/64).

AUTHORIZATION OF THE PETITION FEE

We authorize withdrawal of the petition fee set forth in 37 C.F.R. 1.17 (m) and any fees under 37 C.F.R. §§ 1.16-1.21 that are deemed to be necessary for any reason relating to the instant material from Fox Rothschild, LLP Deposit Account No. 50-1943.

CONCLUSION

Applicants believe that the requirements of the regulation is satisfied. Accordingly, Applicants respectfully request revival of the instant application under either 37 C.F.R. § 1.137 (b).

Date: February 5, 2007

Respectfully Submitted,

By Gerard P Norton

Gerard P. Norton (Reg. No. 36,621)
Attorney for Applicants
FOX ROTHSCHILD LLP
Princeton Pike Corporate Center
997 Lenox Drive, Building 3
Lawrenceville, NJ 08648-2311
Tel: 609-844-3030
Fax: 609-896-1469

UNITED STATES PATENT AND TRADEMARK OFFICE

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Medtronic
Attn: Noreen Johnson - IP Legal Department
2600 Sofamor Danek Drive
Memphis, TN 38132

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OFFICE OF PETITIONS

In re Application of	:	
William F. McKay, et. al.	:	
Application No. 10/382,844	:	DECISION DISMISSING PETITIONS
Filed: March 7, 2003	:	UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. PC681.02	:	

This is a decision on the renewed petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed January 22, 2010, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of priority to the prior-filed nonprovisional and provisional applications set forth in the concurrently filed amendment.

The instant petition is not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Samir R. Patel appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The present petition lacks item (1). Therefore, the petitions are **dismissed**.

The amendment lists the filing date of Application No. 09/959,578 as April 28, 2000. However, Office records show that the correct filing date for Application No. 09/959,578 is June 21, 2002. Therefore, any Application Data Sheet (ADS) or supplemental amendment should set forth the correct filing date of Application No. 09/959,578.

Before the petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) can be granted, a renewed petition and either an ADS or a substitute amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) to correct the above matter is required.

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

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

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
40I Dulany Street
Alexandria, VA 22314

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

9 SEP 2009

UNITED STATES PATENT AND TRADEMARK OFFICE

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FAY KAPLUN & MARCIN, LLP
150 BROADWAY, SUITE 702
NEW YORK, NY 10038

In re Application of	:	
STEIGER et al	:	
Application No.: 10/382,868	:	DECISION ON PETITION
U.S. Patent No.: 7,485,135	:	UNDER 37 CFR 1.78(a)(3)
Filing Date: March 7, 2003	:	
Attorney Docket No.: 10139/13702	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed May 21, 2009, to accept an unintentionally delayed claim under 35 U.S.C. 120 for the benefit of priority to the prior-filed international application set forth in the request for certificate of correction filed concurrently with the instant petition.

The petition is **DISMISSED**.

A petition for acceptance of a late claim for 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 37 CFR 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition does not satisfy item (1) above. Specifically, the reference to the prior-filed application is not included in either an application data sheet (ADS) or an amendment to the specification as required by 37 CFR 1.78(a)(2)(iii). Petitioner is advised that a certificate of correction may be used to amend an issued patent but cannot be used to amend an application.

Before the petition under 37 CFR 1.78(a)(3) can be granted, a renewed petition and either an Application Data Sheet (37 CFR 1.76(a)(5)) or a proper amendment (complying with the provisions of 37 CFR 1.121) to correct the above matters are required.

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

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

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

By fax: (571) 273-0459
ATTN: Office of PCT Legal Administration

Any questions concerning this matter may be directed to Bryan Lin at (571) 272-3303.

BryanLin

Bryan Lin
Legal Examiner
Office of PCT Legal Administration

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LEE & HAYES PLLC
421 W RIVERSIDE AVENUE SUITE 500
SPOKANE WA 99201

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OFFICE OF PETITIONS

In re Application of	:	
Brian J. Deen et al	:	
Application No. 10/382,943	:	DECISION GRANTING PETITION
Filed: March 6, 2003	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. MS1-380USC1	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 16, 2006, to revive the above-identified application.

The petition is **GRANTED**.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Since the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

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 26, 2005 is accepted as having been unintentionally delayed.

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

This matter is being referred to Technology Center AU 2166.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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PARKER & DESTEFANO
SUITE 300
300 PRESTON AVENUE
CHARLOTTESVILLE, VA 22902

COPY MAILED
AUG 16 2005
OFFICE OF PETITIONS

In re Application of :
David F. Greco :
Application No. 10/382,950 :
Filed: March 6, 2003 :
Attorney Docket No. GC-512 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed June 28, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure submit the formal drawings in a timely manner in reply to the Notice of Allowance mailed September 16, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on December 17, 2004.

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

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

This application is being forwarded to the Publishing Division.

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

cc:

Kimberly O. Snead
10363-A Democracy Lane
Fairfax, VA 22030

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

MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH NC 27627

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JUL 0 3 2003

OFFICE OF PETITIONS

In re Application of	:
Anders Larsson	:
Application No: 10/382,956	:
Filing Date: March 6, 2003	:
Attorney Docket No. 9342-64	:

This is a decision on the petition under 37 CFR 1.10(a), filed on May 22, 2003, requesting that the above-identified application be accorded a filing date of March 6, 2003, rather than the presently accorded filing date of March 7, 2003.

The petition is **granted**.

Petitioner alleges the application was deposited in "Express Mail" service with the U.S. Postal Service, on March 6, 2003. In support, the petition is accompanied by a copy of the Express Mail mailing label, receipt no. EV19363056US. The date-in of the Express Mail label is not filled in, however; the date-stamp of the "Crabtree Valley Station" United States Post Office showing the package as being received on March 6, 2003, was found on the Express Mail label. Additionally, the Application Transmittal Form identifies that the above-identified application was deposited via Express Mail with the same Express Mail mailing label, receipt no.EV19363056US.

In view of the above, the evidence is convincing that the application was deposited as "Express Mail" with the US Postal Service on March 6, 2003. Accordingly, the application is accepted as filed on March 6, 2003.

As the filing of the instant petition was necessitated by an Office error, the petition fee of $130.00 will be refunded to deposita account 50-0220, in due course.

The application is being forwarded to Office of Initial Patent Examination for further processing, including the mailing of a corrected filing receipt with a filing date of March 6, 2003.

Telephone inquiries concerning this matter may be directed to the undersigned at 703-305-0010.

Kenya A. McLaughlin

Kenya A. McLaughlin
Senior Petitions Attorney
Office of Petitions

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

APR 26 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

PATE PIERCE & BAIRD
215 SOUTH STATE STREET, SUITE 550
PARKSIDE TOWER
SALT LAKE CITY UT 84111

In re Application of :

ALDEN, RICHARD P. :
Application No. 10/382,960 :
Filed: March 6, 2003 :
For: **PERSONAL PORTABLE INTEGRATOR FOR MUSIC PLAYER AND MOBILE PHONE** :

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed March 22, 2005, under 37 CFR §1.102(d) to make the application special and treated as pursuant to MPEP §708.02, section II (Infringement),.

A grantable petition under 37 CFR §1.102(d) and MPEP §708.02, section II (Infringement), must be accompanied by the required fee and a statement alleging:

(1) that there is an infringing device or product actually on the market or method in use;
(2) that a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and
(3) that he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art. Further, Applicant must provide a copy of each of the references deemed most closely related to the subject matter encompassed by the claims if the references are not already of record.

The petitioner meets all the above-listed requirements. Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant.

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

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

United States
Patent And
Trademark Office

P.O. Box 1450, Alexandria, Virginia 22313-1450 – www.uspto.gov

PETITION DECISION

08/16/04

Marc F. Malooley
Brooks Kushman P.C.
1000 Town Center, 22nd Floor
Southfield, MI 48075-1238

Dear Applicant:

The Box PG Pub replacement drawings for application number 10/382963 received on 07/13/04 by the U. S. Patent and Trademark Office will be included for patent publication.

Telephone inquiries should be directed to Kaletus King, Office of Pre-Grant Publication 703 605-4283.

Kaletus King

Signature of Reviewer, Office of Pre-Grant Publication

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 9

BARRY E. BRETSCHNEIDER
MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD, SUITE 300
MCLEAN, VA 22102

COPY MAILED

MAR 2 5 2004

OFFICE OF PETITIONS

In re Application of :
Keller Arnold et al :
Application No. 10/382,989 :
Filed: March 7, 2003 :
Attorney Docket No. 246472004500

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 3732.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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BEYER WEAVER & THOMAS, LLP
P.O. BOX 70250
OAKLAND CA 94612-0250

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OFFICE OF PETITIONS

In re Application of	:	
HEIM, et al.	:	
Application No. 10/383,005	:	DECISION GRANTING PETITION
Filed: March 5, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. SRI1P051/US-4606-3	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 11, 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 October 10, 2006 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 3753 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

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

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JAN 13 2006

OFFICE OF PETITIONS

In re Application of	:
Salman Akram	:
Application No. 10/383,042	: DECISION GRANTING PETITION
Filed: March 6, 2003	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 2269-3854.1US (98-0854.01/US)	:

This is a decision on the petition, filed January 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 November 11, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2813 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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OBLON SPIVAK McCLELLAND
MAIER & NEUSTADT PC
1940 DUKE STREET
ALEXANDRIA, VA 22314

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AUG 12 2005

OFFICE OF PETITIONS

In re Application of	:
Kosuke Urakawa	:
Application No. 10/383,057	: DECISION GRANTING PETITION
Filed: March 7, 2003	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 235014US-2CONT	:

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on July 29, 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 2825 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), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

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

Patent No.: 7,059,253 B2
Inventor(s): Pung Yeun Cho
Issued : June 13, 2006
Title : TABLE AND MICROWAVE OVEN PROVIDED WITH TABLE

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.

Respecting the alleged error inventors' address, the inventors are printed in accordance with the Declaration submitted at the time of filing the application. Therefore, no correction is in order here under Rules 1.322 or 1.323.

However, your attention is directed to C.F.R. 1.324, wherein a request is being made to add or delete inventor(s), after issuance of the patent.

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

Any petition under 37 CFR 1.324(required fee currently $130) should be directed to the attention of the Assistant Commissioner for Patents, using the following mailing address or FAX number.

By Mail: Commissioner of Patents and Trademarks
Technology Center 1733/Examiner M. Tolin
Washington, D.C. 20231

Eva James
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 ext.124 or 102

Gene M. Garner, II
1201 New York Ave, N.W., 7th Floor
Washington, DC 20005

ej

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Commissioner for Patents
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MAY 26 2006
OFFICE OF PETITIONS

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

In re Application of	:	
Takashi Miyazawa	:	
Application No. 10/383,075	:	ON PETITION
Filed: March 7, 2003	:	
Attorney Docket No. 115309	:	

This is a decision on the petition, filed May 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 December 12, 2005, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2811 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
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Paper No. _____

Date : May 26, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner for Patent Examination Policy

COPY MAILED
MAY 26 2006
OFFICE OF PETITIONS

SUBJECT : Withdrawal from Issue of

Applicant(s) :Takashi Miyazawa
Application No. :10/383,075
Filed :March 7, 2003

The above-identified application has been assigned Patent No. 7,053,409 and an issue date of May 30, 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 May 30, 2006:

"All reference to Patent No. 7,053,409 to Takashi Miyazawa of Japan for WIRING SUBSTRATE, ELECTRONIC DEVICE, ELECTRO-OPTICAL DEVICE, AND ELECTRONIC APPARATUS appearing in the Official Gazette of May 30, 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
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In re Application of. WESTERINEN ET AL.	:	
Appl No.: 10/383,091	:	**DECISION GRANTING**
Filed: March 06, 2003	:	**PETITION**
For: SYSTEM AND METHOD FOR PRESERVING STATE DATA OF A PERSONAL COMPUTER IN A STANDBY STATE IN THE EVENT OF AN AC POWER FAILURE	:	*37 CFR 1.84(a)*

This is a decision on the petition filed July 09, 2004to correct inventorship under 37 CFR 1.84(a).

The petition is granted.

The application file is being forwarded to the Technology Center support staff for adding Shaun Wiley as a co-inventor.

Thomas C. Lee
Supervisory Patent Examiner
Art Unit 2115
Technology Center 2100

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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JUL 16 2004

In re Application of	:	
Jui-Fang Liang, Hsinchu Hsien	:	NOTICE OF WITHDRAWAL
Serial No. 10/383109	:	FROM ISSUE
Filed: March 7, 2003	:	UNDER 37 CFR 1.313(b)
For: METHOD AND APPARATUS OF ASYN-	:	
CHRONOUS ELECTRIC DISCHARGE	:	
MACHINE FOR WIRE CUT	:	

The above-identified application is withdrawn from issue after payment of the issue fee due to reopening of prosecution. See 37 CFR 1.313 (b).

The above-identified application is hereby withdrawn from issue.

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

Telephone inquiries should be directed to Thomas Dunn (571) 272-1171.

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

JMStone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Birch Stewart Kolasch & Birch
PO Box 747
Falls Church, VA
22040-0747

cc: Allowed Files—Pk3-910

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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Paper 6

SUTHERLAND ASBILL & BRENNAN LLP
999 PEACHTREE STREET, N.E.
ATLANTA GA 30309

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OCT 27 2003

OFFICE OF PETITIONS

In re Application of
Richard G. Cartledge et al.
Application No. 10/383,117
Filed: March 6, 2003
Attorney Docket No 17311-0026

DECISION GRANTING PETITION

This is a decision on the petition filed June 30, 2003 under 37 CFR 1.53, in response to the "Notice of Omitted Items" mailed May 2, 2003.

The instant application was filed March 6, 2003 and a filing date was accorded. However, according to the Notice of Omitted Items, the application papers submitted did not include pages 24, 25 and 28 of the specification.

Petitioner asserts that pages 24, 25 and 28 of the specification were among the papers filed on March 6, 2003, and submits a "legible" postcard receipt which itemizes the contents of the original application packet, in evidence thereof.

The postcard receipt was date stamped by the USPTO on March 6, 2003 and acknowledges, inter alia, the number of pages included in the specification to be 38.

Additionally, petitioner has provided a copy (3 pages) of the purportedly omitted pages of the specification and a copy of the application transmittal cover-sheet.

Because the return postcard receipt date-stamped August 30, 2001 properly itemizes the contents of the application package in accordance with MPEP §503, and because the postcard receipt lacks any notation of non-receipt of any item listed, the USPTO concludes that the three pages of the specification, pages 24, 25 and 28 were filed on March 6, 2003 with the application papers, but that those papers were subsequently misplaced in the Office. The Office apologizes for the losses and any inconvenience occasioned by this error.

In view of the foregoing, the petition is **granted**. Deposit account no. 19-5029 will be credited in the amount of $130.00 for the petition in this matter.

It should also be noted that a review of the file reveals that page 35 of the specification appears to have been omitted but because the Notice of Omitted Items did not indicate that pages other than pages 24, 25 and 28 appeared to be omitted and in view of the evidence provided and the holding herein, petitioners have been allowed to submit by facsimile transmission, a copy of page 35 of the specification.

This file is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of March 6, 2003 using the copy of pages 24, 25 and 28 supplied June 30, 2003 and page 35 of the specification supplied October 24, 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 AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

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OFFICE OF PETITIONS

In re Application of	:	
FRANCOIS, et al.	:	
Application No. 10/383,118	:	DECISION ON PETITION
Filed: March 6, 2003	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. **JAB-1313-USA-CNT**	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 24, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, June 2, 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 September 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 $1500; and (3) an adequate 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. Hal B. Woodrow 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.

The application is being referred to Technology Center Art Unit 2141 for consideration of the amendment filed May 24, 2007.

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

Brian W. Brown
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/5/08

TO SPE OF : ART UNIT 2162 Breene John (Spe)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/383152 Patent No.: 7366799

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Certificates of Correction Branch
703-308-9390 ext. _____

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: Replaced hand drawings and corrected the omission of a period in the spec. /RS/

/John E Breene/ — SPE

2162 — Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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ATTENTION WILLIAM E. HICKMAN
SHELL OIL COMPANY
ONE SHELL PLAZA
P.O.BOX 2463
HOUSTON TX 77252-2463

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MAY 0 4 2006

OFFICE OF PETITIONS

In re Application of
David Wayne McMillan et al.
Application No. 10/383,155
Filed: March 6, 2003
Attorney Docket No. 26780/25:

ON PETITION

This is a decision on the petition, filed March 9, 2006 under 37 CFR 1.137(b)[1], to revive the above-identified application.

The petition is **GRANTED**.

A Notice of Allowability, mailed August 31, 2005, required the submission of corrected drawings on or before November 30, 2005. This application became abandoned December 1, 2005. Accordingly, a Notice of Abandonment was mailed February 21, 2006.

This application is being forwarded to the Publishing Division for review of the drawings shown as having been received in the PTO on March 9, 2006.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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[1]A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by:

(1) the required reply (unless previously filed), which may be met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute, but must be the payment of the issue fee or any outstanding balance thereof in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof;

(2) the petition fee required by 37 CFR 1.17(l);

(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) a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) in a design application, a utility application filed before June 8, 1995, or a plant application filed before June 8, 1995.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

John A. Parrish
Law Offices of John A. Parrish
Suite 300
Two Bala Plaza
Bala Cynwyd PA 19004

COPY MAILED

OCT 3 1 2003

OFFICE OF PETITIONS

In re Application of	:
Kepner & Ponder	:
Application No. 10/383,168	: DECISION ACCORDING STATUS
Filed: March 5, 2003	: UNDER 37 CFR 1.47(a)
Attorney Docket No. APY-001	:
For: MICROBIAL CONTROL SYSTEM	:

This is in response to the petition under 37 CFR 1.47(a), filed September 2, 2003 (certificate of mailing date August 26, 2003).

The petition is granted.

Petitioner has shown that the non-signing inventor, Sherman M. Ponder, has expressly refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the statement of facts found in the petition, which was signed by Attorney John A. Parrish, establishes that the inventor was successfully mailed the application papers, including the specification, claims and drawings, but the inventor refused to sign the declaration during a telephone conversation with Attorney Parrish on July 29, 2003. Petitioner has submitted a declaration in compliance with 37 CFR 1.63 and 1.64.

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

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

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

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

E. Shirene Willis

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
DIW Jun-06

SAMUEL A. KASSATLY LAW OFFICE
20690 VIEW OAKS WAY
SAN JOSE CA 95120

COPY MAILED
JUN 1 2 2006
OFFICE OF PETITIONS

In re Application of	:	
Arning et al.	:	DECISION ON PETITION
Application No. 10/383,182	:	TO WITHDRAW HOLDING OF
Filed: 6 March, 2003	:	ABANDONMENT
Atty Docket No. DE920010090US	:	

This is in response to the petition filed on 2 April, 2006, 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 Allowance and Fee(s) Due mailed on 3 November, 2005. A Notice of Abandonment was mailed on 28 March, 2006.

Petitioners assert that the Notice of Allowance mailed on 3 November, 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. See "Withdrawing the Holding of Abandonment When Office Actions Are Not Received" 1156 Official Gazette 53 (November 16, 1993) and M.P.E.P. § 711.03(c). The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

A review of the record indicates that the Notice 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 record 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 non-final Office action 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 petitioners have submitted the issue and publication fees required by the Notice of Allowance with the present petition, there is no need to remail the Notice.

The application file will be forwarded to the Publishing Division for processing into a patent.

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
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MICHAEL P. MORRIS
BOEHRINGER INGELHEIM CORPORATION
900 RIDGEBURY ROAD
P.O. BOX 368
RIDGEFIELD CT 06877-0368

COPY MAILED
JUL 21 2006
OFFICE OF PETITIONS

In re Application of	:	
Norbert Hauel	:	
Application No. 10/383,198	:	ON PETITION
Filed: March 6, 2003	:	
Attorney Docket No. 1/1306	:	

This is a decision on the petition, filed July 21, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 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 the undersigned at (571) 272-3208.

The examiner of Technology Center AU 1616 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. _____

Date : July 21, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Norbert Hauel
Application No. :10/383,198
Filed :March 6, 2003

The above-identified application has been assigned Patent No. 7,087,760 and an issue date of August 8, 2006.

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

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of August 8, 2006:

"All reference to Patent No. 7,087,760 to Norbert Hauel of Germany for ETHYL 3-[(2-{[-4-HEXYLOXYCARBONYLAMINO-IMINO-METHYL)-PHENYLAMINO]-METHYL}-1-METHYL-1H-BENZIMIDAZOL-5-CARBONYL)-PYRIDIN-2-YL-AMINO]-PROPIONATE METHANESULPHONATE appearing in the Official Gazette of August 8, 2006 should be deleted since no patent was granted."

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

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ALEXANDRIA, VA 22313-1450
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MINTZ LEVIN COHN FERRIS
GLOVSKY AND POPEO, P.C.
ONE FINANCIAL CENTER
BOSTON, MA 02111

COPY MAILED

DEC 1 1 2003

OFFICE OF PETITIONS

In re Application of	:	
John Alsobrook II et al	:	
Application No. 10/383,201	:	DECISION GRANTING STATUS
Filed: March 6, 2003	:	UNDER 37 CFR 1.47(A)
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 October 6, 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.

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
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ALEXANDRIA, VA 22313-1450
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LUCA RASTELLI
52 PEPPERBUSH LANE
GUILFORD, CT 06437

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DEC 1 1 2003

OFFICE OF PETITIONS

In re Application of
Alsobrook II; Anderson; Boldog; Burgess; Chaudhuri; Colman; Edinger; Ettenberg; Gangolli; Gerlach; Gorman; Guo; Kekuda; Li; MacLachlan; Malyankar; Mezes; Miller; Millet; Padigaru; Patturajan; Peyman; Qian; Rastelli; Rieger; Smithson; Spytek; Stone; Sukumaran; Vernet; Voss; and Zhong
Application No. 10/383,201
Filed: March 6, 2003
For: THERAPEUTIC POLYPEPTIDES, NUCLEIC ACIDS ENCODING SAME, AND METHODS OF USE

Dear Mr. Rastelli:

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

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join 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:
MINTZ LEVIN COHN FERRIS GLOVSKY & POPEO, P.C.
ONE FINANCIAL CENTER
BOSTON, MA 02111

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAGINOT, MOORE & BECK, LLP
CHASE TOWER
111 MONUMENT CIRCLE
SUITE 3250
INDIANAPOLIS, IN 46204

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NOV 2 7 2007

OFFICE OF PETITIONS

In re Application of Schifferle :
Application No. 10/383,210 : Decision on Petition
Filing Date: March 6, 2003 :
Attorney Docket No. 1761-0052 :

This is a decision on the petition under 37 CFR 1.137(a), filed July 19, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

Facts:

The Office mailed a non-final Office action to the address of record on November 17, 2006. The Office action set a shortened statutory period for reply of three (3) months.

The USPS returned the Office action to the USPTO as "Not Deliverable as Addressed."

A "Revocation of Power of Attorney With New Power of Attorney and Change of Correspondence Address" was filed January 8, 2007.

The application became abandoned as of February 18, 2006, due to applicant's failure to reply to the November 17, 2006 Office action.

A Notice of Abandonment was mailed on June 27, 2007.

Discussion:

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, and
(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.

As to item (1), petitioner has not filed a reply to the November 17, 2006 Office action. A copy of the Office action is attached.

As to item (2), the fee of $250 has been charged to deposit account no. 13-0014.

As to item (3), the showing of record is not sufficient to establish to the satisfaction of the Commissioner that the delay was unavoidable within the meaning of 37 CFR 1.137(a).

"[T]he question of whether an applicant's delay in prosecuting an application was unavoidable must be decided on a case-by-case basis, taking all of the facts and circumstances into account."[1] In order for a party to prove unavoidable delay, the Office requires the party demonstrate the party exercised the "care or diligence tha[t] is generally used and observed by prudent and careful men in relation to their most important business."[2]

Petitioner has failed to prove petitioner was reasonable in relying on the prior law firm to forward office actions to the new law firm of record. Rather than risk mail being lost during the forwarding process, a reasonable person treating the application the same as he or she would treat his or her most important business would have requested the USPTO send all correspondence directly to the new law firm.

Petitioner has not shown the new law firm was prevented from filing a request to change the address of record. Petitioner has not shown the law firm had inadequate time to file a change of address. Petitioner states the prior law firm had successfully forwarded a July 6, 2006, Office action, and a September 27, 2006 Notice to the new law firm. A request to change the address to the new law firm's address was not filed until January 8, 2007.

Even if the new law firm was reasonable in relying on the former law firm, such reliance would not, per se, constitute "unavoidable" delay. When a party relies on an agent to take certain steps, the petition must address not only the party's actions *but also* address the agent's actions or inactions.[3] A showing is insufficient if it merely establishes that petitioner did everything petitioner could to monitor the agent's actions and inactions, but fails to address the agent's conduct.[4]

---

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

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

[3] See Pioneer Inv. Servs. Co. v. Brunswick Assocs. Ltd. P'ship, 507 U.S. 380, 396, 397 (1993) ("The [Circuit] court also appeared to focus its analysis on whether respondents did all they reasonably could in policing the conduct of their attorney, rather than on whether their attorney, as respondents' agent, did all he reasonable could to comply with the court-order bar date. In this, the court erred. . . . [I]n determining whether respondents' failure to file their proof of claim prior to the bar date was excusable, the proper focus is upon whether the neglect of respondents *and their counsel* was excusable." (emphasis in original)). In Huston v. Ladner, 973 F.2d 1564, 1567, 23 U.S.P.Q.2D (BNA) 1910 (Fed. Cir. 1992), the court determined the client was bound by the attorney's actions. The majority was unpersuaded by the dissent which states in part that the "errors occurred despite exceptional vigilance by the client."

[4] See Id.

Petitioner has failed to establish the prior law firm kept the USPTO informed of a current and valid correspondence address. Petitioner has failed to prove the prior law firm's failure to keep the Office informed of a current address was unavoidable. Therefore, the petition cannot be granted.

If petitioner cannot provide the evidence necessary to establish unavoidable delay, or simply does not wish to, petitioner may wish to consider filing a petition to revive based on unintentional abandonment under 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply, the required petition fee ($770 for a small entity), and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

A PDF "fillable" version of a petition under 37 CFR 1.137(b) the form can be found at: http://www.uspto.gov/web/forms/sb0064_fill.pdf.

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.

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

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

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

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

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Attached: Copy of November 17, 2006 Office action

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.
10/383,210	03/06/2003	Rene Schifferle	HQ-6462	6949

7590 11/17/2006

TAROLLI, SUNDHEIM, COVELL, TUMMINO & SZABO L.L.P.
1111 LEADER BLDG.
526 SUPERIOR AVE.
CLEVELAND, OH 44114-1400

EXAMINER
ALEXANDER, REGINALD

ART UNIT	PAPER NUMBER
1761	

DATE MAILED: 11/17/2006

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

Office Action Summary	Application No.	Applicant(s)	
	10/383,210	SCHIFFERLE, RENE	
	Examiner	Art Unit	
	Reginald L. Alexander	1761	

-- 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) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, 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 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 15 September 2006.

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) 33-72 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) 33-35 and 44-46 is/are allowed.

6)☒ Claim(s) 36-38,44-50,52,56-58,60,63,65 and 66 is/are rejected.

7)☒ Claim(s) 39-43, 51, 53-55, 59, 61, 62, 64 and 67-72 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/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

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 36-38, 56-58, 60, 65 and 66 are rejected under 35 U.S.C. 103(a) as being unpatentable over Green in view of Malmquist.

There is disclosed in Green a cartridge, comprising: a cup shaped main body portion 100; a cover member 830 sealingly attached to an open end of the main body portion and having an area 860 having reduced mechanical strength; a fluid director 810 within the main body portion; the fluid member including a plurality of openings 820.

Malmquist discloses a fluid director (fig. 2) within a cartridge, the fluid director including raised ribs (embossings) 24 which form fluid channels therebetween.

It would have been obvious to one skilled in the art to provide the fluid director of Green with the raised ribs taught in Malmquist, in order to facilitate the guidance of fluid to the openings.

Claims 47-50, 52, 56-58, 60, 63 and 66 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rodth in view of Bouladon.

There is disclosed in Rodth a cartridge, comprising: a cup shaped main body portion 11; a cover member 25 sealingly attached to an open end of the main body

portion; a fluid director 17 within the main body portion; the fluid member including a plurality of openings 22, 23; an recess 19 in the fluid director.

Bouladon discloses a fluid director 5, 7 within a cartridge, the fluid director including bosses (embossings) 8, 9 which form fluid channels therebetween.

It would have been obvious to one skilled in the art to provide the fluid director of Rodth with the bosses taught in Bouladon, in order to facilitate the guidance of fluid to the openings.

In regards to claims 52 and 60, the claims merely recite that the device is configured for the use of a piercing element. There is no positive recitation of a piercing element. It is apparent that the prior art cover could be pierced by a piercing element without the fluid director being pierced.

Allowable Subject Matter

Claims 39-43, 51, 53-55, 59, 61, 62, 64 and 67-72 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.

Claims 33-35 and 44-46 are allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Reginald L. Alexander whose telephone number is 571-272-1395. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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).

Reginald L. Alexander
Primary Examiner
Art Unit 1761

rla
13 October 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAGINOT, MOORE & BECK, LLP
CHASE TOWER
111 MONUMENT CIRCLE
SUITE 3250
INDIANAPOLIS, IN 46204

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OFFICE OF PETITIONS

In re Application of Schifferle	:	
Application No. 10/383,210	:	Decision on Petition
Filing Date: March 6, 2003	:	
Attorney Docket No. 1761-0052	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 17, 2007, to revive the above-identified application.

The petition is **granted**.

The Office mailed a non-final Office action to the address of record on November 17, 2006. The Office action set a shortened statutory period for reply of three (3) months. The application became abandoned as of February 18, 2006, due to applicant's failure to reply to the November 17, 2006 Office action.

The instant petition requests revival of the application.

Petitioner has submitted the required petition fee of $1,540. Petitioner has submitted a reply to the November 17, 2006 non-final Office action in the form of an amendment filed with the petition. Petitioner has stated the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

Technology Center Art Unit 1761 will be informed of the instant decision and the application will be further examined in due course.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAIL

Paper No. 3

SEP 0 4 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

SILICON VALLEY INTELLECTUAL PROPERTY GROUP
P.O. BOX 721120
SAN JOSE CA 95172-1120

In re Application of:
TAYLOR, LANCE G.
Application No. 10/383,211
Filed: March 5, 2003
For: **INTELLIGENT SELECTIVELY-TARGETED COMMUNICATIONS SYSTEMS AND METHODS FOR AIRCRAFT**

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the Request for Reconsideration of Denial of Petition To Make Special under MPEP 708.02, XI: Invention for Countering Terrorism, filed May 6, 2003.

A grantable petition to make an application special under 37 C.F.R. § 1.102(d), and in accordance with MPEP 708.02, XI, for an invention which contributes to the countering of terrorism, must include the petition fee under 37 CFR 1.17(i). The petition must also be accompanied by a statement explaining how the invention contributes to countering terrorism. The types of technology for countering terrorism could include, but are not limited to, systems for detecting/identifying explosives, aircraft sensors/security systems, and vehicular barricades/disabling systems.

The statements made in the petition along with the disclosure of the invention show how the technology of the instant application directly contributes to the countering of terrorism.

Accordingly, the petition is **GRANTED**.

The application file will be forwarded to the examiner for expedited action.

Kenneth A. Wieder

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

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UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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Paper No. 3

MAIL

OCT 24 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

SILICON VALLEY INTELLECTUAL PROPERTY GROUP
P.O. BOX 721120
SAN JOSE CA 95172-1120

In re Application of:
LANCE G TAYLOR
Application No. 10/383,214
Filed: March 5, 2003
For: **INTELLIGENT SELECTIVELY-TARGETED COMMUNICATIONS SYSTEMS AND METHODS**

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed May 6, 2003 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

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

The petition meets all the above-listed requirements. Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant. After mailing, the application will be forwarded to the examiner for immediate handling.

Dwayne D. Bost
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4778

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/383,256	03/07/2003	Paul R. Runkle	XSI.051

CONFIRMATION NO. 7379

WITHDRAWAL NOTICE

OC000000010834402

29101
XTREMESPECTRUM, INC.
8133 LESSBURG PIKE
SUITE 700
VIENNA, VA 22182

Date Mailed: 09/08/2003

WITHDRAWAL OF PREVIOUSLY SENT NOTICE

It has come to the attention of the Office that the Notice on 04/28/2003 was sent in error. Please disregard that Notice. The application is complete and will be processed for examination. The Official Filing Receipt is enclosed. We apologize for any inconvenience this has caused.

A copy of this notice MUST be returned with the reply.

Customer Service Center
Initial Patent Examination Division (703) 308-1202

PART 3 - OFFICE COPY

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

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

COPY MAILED

JUL 25 2007

OFFICE OF PETITIONS

In re Patent No. 7,193,626	:	
Otani et al.	:	LETTER REGARDING
Issue Date: March 20, 2007	:	PATENT TERM ADJUSTMENT
Application No. 10/383,260	:	and
Filed: March 7, 2003	:	NOTICE OF INTENT TO ISSUE
Atty Docket No. 035924-0108	:	CERTIFICATE OF CORRECTION

This is in response to the "LETTER (UNDER A GENERAL OBLIGATION OF CANDOR AND GOOD FAITH IN PRACTICE BEFORE THE OFFICE)" filed March 19, 2007. Patentees disclose that the patent term adjustment should be four hundred thirty-two (432) days instead of seven hundred thirty-seven (737) as indicated by the Notice of Allowance and the Issue Notification.

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

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 SEVENTY-FIVE (375)** days.

On March 20, 2007, the application matured into U.S. Patent No. 7,193,626, with a revised patent term adjustment of 737 days. On March 19, 2007, patentees filed the instant request. Patentees disclose that the period of adjustment pursuant to § 1.703(a)(1), is 434 days, not 739 days, counting the number of days beginning on the date after the day that is fourteen months after the date on which the application was filed under 35 U.S.C. 111(a), May 8, 2004, and ending on the mailing date of an action under 35 U.S.C. 132 on July 15, 2005. (There is no dispute that entry of a period of reduction of 2 days pursuant to 37 CFR 1.704(b) is correct).

With respect to the adjustment pursuant to 37 CFR §§ 1.702(a) and 1.703(a)(1), patentees are correct regarding the amount and basis for the adjustment. Accordingly, this period of adjustment has been corrected from 739 days to 434 days.

In addition, a review of the application history reveals a further basis for entry of a period of reduction pursuant to 37 CFR 1.704(c)(8). Specifically, on December 13, 2005, then applicants filed a certified copy of the priority papers. This was after having filed a response to the Office action on October 17, 2005. These priority papers were not expressly requested by the examiner within the meaning of 37 CFR 1.704(c)(8).

37 CFR 1.704(c) provides, in pertinent part, that:

> Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:
>
> (8) Submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the initial reply was filed and ending on the date that the supplemental reply or other such paper was filed;

Pursuant to 1.704(c)(8), a period of reduction of 57 days for the period beginning on October 18, 2005 and ending on December 13, 2005 is being entered.

In view thereof, the patent should have issued with a revised patent term adjustment of THREE HUNDRED SEVENTY-FIVE (375) days.

As this letter was submitted as an advisement to the Office of an error in Patentees' favor, the Office will not assess the $200.00 fee under 37 CFR 1.18(e). The Office thanks patentees for their good faith and candor in bringing this to the attention of the Office.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify 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 SEVENTY-FIVE (375) days.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,193,626 B2

DATED : March 20, 2007

INVENTOR(S) : Otani 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 (737) days

Delete the phrase "by 737" and insert – by 375 days--

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CANCELLED

DEC 0 9 2006

OFFICE OF PETITIONS

OPTV/MOFO
C/O MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD, SUITE 300
MCLEAN VA 22102

In re Application of	:	
Ian Zenoni	:	
Application No. 10/383,270	:	DECISION ON PETITION
Filed: March 5, 2003	:	TO WITHDRAW
Attorney Docket No. 577172002700	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed September 14, 2006.

The request is **NOT APPROVED**.

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

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

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

There is an outstanding Office action mailed October 18, 2006 that requires a reply by the applicant.

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: MARC KAUFMAN, ESQ.
NIXON, PEABODY LLP
401 9TH STREET, NW
SUITE 900
WASHINGTON, DC 20004

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED

SEP 0 1 2004

OFFICE OF PETITIONS

In re Application of	:	
Sheng Tai Lee	:	
Application No. 10/383,277	:	ON PETITION
Filed: March 7, 2003	:	
Attorney Docket No. O2MICRO 03.01	:	

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 (703) 306-5594.

The application matter is being referred to Files Repository.

Retta Williams

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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FREEDMAN & ASSOCIATES
117 CENTREPOINTE DRIVE
SUITE 350
NEPEAN, ONTARIO K2G 5X3 CA
CANADA

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MAR 0 9 2006
OFFICE OF PETITIONS

In re Patent No. 6,954,959	:	
Issue Date: October 18, 2005	:	
Application No. 10/383,288	:	NOTICE
Filed: March 7, 2003	:	
Attorney Docket No. 12M-38 US	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28, filed by facsimile transmission on January 29, 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**.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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UT-Battelle, LLC
Office of Intellectual Property
One Bethal Valley Road
4500N, MS-6258
Oak Ridge, TN 37831

Mail Date: 07/14/2010

Applicant	: Mitchel J. Doktycz	: DECISION ON REQUEST FOR
Patent Number	: 7641863	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/383,309	: 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 **1053** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN, NJ 08830

Mail Date: 04/26/2010

Applicant	: Catherine Britton	: DECISION ON REQUEST FOR
Patent Number	: 7590932	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/383,324	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/07/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1356** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Paper No.

IBM CORPORATION (RUS)
c/o Rudolf O Siegesmund
Gordon & Rees, LLP
2100 Ross Avenue
Suite 2600
DALLAS TX 75201

COPY MAILED

OCT 01 2007

OFFICE OF PETITIONS

In re Application of :
Charles Hooks : DECISION ON PETITION
Application No. 10/383,359 :
Filed: March 6, 2003 :
Atty Docket No.AUS920020699US1:

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a), filed April 19, 2007, in the above-identified application. Therein, applicants petition for withdrawal of the holding of abandonment on the basis that the Office communication mailed August 1, 2006 was not received.

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

Any renewed petition 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)." Extensions of time under 37 CFR §1.136(a) are permitted.

The above-identified application became abandoned for failure to file a reply to the non-final Office action mailed August 1, 2006. 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 timely filed and no extension of time considered obtained, the application became abandoned effective November 2, 2006. A courtesy Notice of Abandonment was mailed on April 10, 2007.

Petitioner states that the delay was unavoidable, as the Office action was not received. In support thereof, petitioner submits a copy of their docket records. However, petitioner acknowledges that the correspondence address changed from Suite 2600 to Suite 2650. Petitioner argues that this should have been of no consequence, as the law firm presently in Suite 2600 would have forwarded the mail. In addition, this did not prevent receipt of the notice of abandonment.

The facts and circumstances of the abandonment of this application have been considered. Further, a review of the application history has been carefully undertaken. The presumption that the Office communication was mailed to the correspondence address of record is not overcome. Further, under the facts and circumstances of the delay at issue, it is concluded that the delay was not unavoidable within the meaning of 1.137(a).

A grantable petition under § 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 C.F.R. § 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 fails to meet requirement (1).

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' ... is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph,

> worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be 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.

It is well-established that where an application becomes abandoned as a consequence of a change of correspondence address (the Office action being mailed to the old, uncorrected address and failing to reach the applicant in sufficient time to permit a timely reply) an adequate showing of "unavoidable" delay will require a showing that due care was taken to adhere to the requirement for prompt notification in each concerned application of the change of address (see MPEP § 601.03), and must include an adequate showing that a timely notification of the change of address was filed in the application concerned, and in a manner reasonably calculated to call attention to the fact that it was a notification of a change of address. The following do not constitute proper notification of a change in correspondence address:

> (A) the mere inclusion, in a paper filed in an application for another purpose, of an address differing from the previously provided correspondence address, without mention of the fact that an address change was being made;
> (B) the notification on a paper listing plural applications as being affected (except as provided for under the Customer Number practice - see MPEP § 403); or

(C) the lack of notification, or belated notification, to the U.S. Patent and Trademark Office of the change in correspondence address.

In this instance, applicants did not file a change of correspondence address. Accordingly, non-receipt of the Office action at the new address does not support a conclusion that the delay in responding was unavoidable. Applicants have not shown that due care was taken to adhere to the requirement for prompt notification of the change of address. Accordingly, it is concluded that petitioner has not met his burden of establishing unavoidable delay and the petition must be dismissed.

It is noted that, as of the mailing of this decision, petitioner has not filed a change of correspondence address from Suite 2600 to Suite 2650. The petition includes the required reply and payment of the petition fee.

Petitioner is not precluded from seeking revival based on unintentional delay. Petitioner is reminded that any delay in filing a petition will be considered in the determination of whether the entire delay was unintentional.

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

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

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

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No.

IBM CORPORATION (RUS)
c/o Rudolf O Siegesmund
Gordon & Rees, LLP
2100 Ross Avenue
Suite 2600
DALLAS TX 75201

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JAN 25 2008

OFFICE OF PETITIONS

In re Application of	:	
Charles Hooks	:	DECISION ON PETITION
Application No. 10/383,359	:	
Filed: March 6, 2003	:	
Atty Docket No.AUS920020699US1	:	

This is a decision on the RENEWED PETITION FOR REVIVAL BASED ON UNINTENTIONAL DELAY (FOLLOWING OCTOBER 1, 2007 DECISION DISMISSING PETITION FOR REVIVAL BASED ON UNAVOIDABLE DELAY filed (Monday) December 3, 2007.

The petition is **GRANTED**.

The above-identified application became abandoned effective November 2, 2006 for failure to file a reply to the non-final Office action mailed August 1, 2006. A courtesy Notice of Abandonment was mailed on April 10, 2007. By decision mailed October 1, 2007, the initial PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a), filed April 19, 2007 was dismissed for failure to meet the burden of establishing unavoidable delay.

In response, applicant timely filed the instant renewed petition based on unintentional delay. The required reply in the form of

an amendment was previously filed on April 19, 2007. Likewise, on initial petition, applicant set forth the facts and circumstances of the abandonment of this application. Moreover, the facts and circumstances were consistent with a finding that the entire delay was unintentional. In addition, the instant renewed petition includes the required statement of unintentional delay and payment of the required petition fee. No terminal disclaimer is required.

Petitioner has now met all requirements for revival of the application pursuant to 37 CFR 1.137(b).

Technology Center AU 2123 has been advised of this decision. The application is, thereby, forwarded to the examiner for consideration of the reply submitted on petition filed April 19, 2007.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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MAR – 2 2005

EZRA SUTTON, PA
PLAZA 9
900 ROUTE 9
WOODBRIDGE NJ 07095

In re Application of	:
Bruce H. Victor	:
Serial No.: 10/383,366	: PETITION DECISION
Filed: March 7, 2003	:
Attorney Docket No.: LIPO 3.0-002	:

This is in response to the petition under 37 CFR 1.181, filed November 12, 2004, for withdrawal of abandonment of the above identified application based on failure to receive an Office action. The delay in acting on this petition is regretted.

A review of the file history shows that the examiner mailed a Notice of Allowance and Issue Fee Due and a Notice of Allowability to applicant on June 2, 2004, setting a three month statutory period for payment of the Issue Fee. Upon failure to receive a reply, the Office mailed a Notice of Abandonment to applicant on October 21, 2004. Both communications were mailed to the address above. Applicant states that the Notices were not received. M.P.E.P. 711.03(c) indicates under the section giving direction for withdrawing an abandonment based on non-receipt of an Office action that both a statement of non-receipt and copies of docket records, mail logs or other evidence establishing non-receipt must be provided. No such evidence has been provided in this instance. Reference to a related application in which similar Notices were mailed the same day and returned to the Office is insufficient to establish non-receipt in this application.

The petition is **DISMISSED**. Applicant may seek revival by filing of a renewed petition which satisfies the provisions of M.P.E.P. 711.03(c), noted above.

The application will be retained in storage.

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 571-272-0591 or by facsimile sent to the general Office facsimile number, 703-872-9306.

Bruce M. Kisliuk
Director, Technology Center 1600

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900 ROUTE 9
WOODBRIDGE NJ 07095

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MAR 17 2006

OFFICE OF PETITIONS

In re Application of
Bruce H. Victor
Application No. 10/383,366
Filed: March 7, 2003
Attorney Docket No. **LIPO 3.0-002(CIP)(DIV.IV)**

ON PETITION

This is a decision on the renewed petition filed November 23, 2005, to withdraw the holding of abandonment under 37 CFR 1.181, in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513.

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

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181," or, as explained in more detail below, "...under 37 CFR 1.137(a)" or (b). This is not a final agency decision.

The above-referenced application was held abandoned on September 3, 2004 for failure to timely pay the issue fee in response to the Notice of Allowance mailed June 2, 2004. Accordingly, a Notice of Abandonment was mailed October 21, 2004.

The file record discloses that the Notice of Allowance was mailed to what was believed to be the address of record. However, petitioner contends that it was not received.

In a petition filed November 12, 2004, petitioner asserted that a Notice of Allowance also mailed June 2, 2004 in another case was returned to the USPTO as undeliverable. Petitioners argued that perhaps the same problem encountered with the mail in the other case could be the reason the Notice of Allowance in the instant matter was not received. That petition was dismissed in a decision mailed March 2, 2005 because the evidence presented was insufficient to prove non-receipt of the Notice of Allowance in the instant application.

In a petition under 37 CFR 1.181 the petitioner must show, as in this instance where non-receipt is claimed that petitioner is without fault in not receiving the communication.

In the absence of any irregularity in the mailing, there is a strong presumption that the Office action was properly mailed to the address of record. This presumption may be overcome by a showing that the Office action was not in fact received at the address of record. The requirement for an argument under 37 CFR 1.181 is that copies of the actual docket records or file jacket be provided, has not been met.

As was indicated in the decision on petition mailed March 2, 2005, the reference to a related application in which similar Notices were mailed the same day and returned to the Office is insufficient to establish non-receipt in this application.

With the renewed petition petitioners have not supplied any additional evidence to substantiate the claim of non-receipt and no other corroborating evidence to prove non-receipt has been presented. The instant petition reiterates the same argument made in the petition filed November 12, 2004. In view thereof, the holding of abandonment cannot be withdrawn.

Petitioner may wish to filed a petition to revive under 37 CFR 1.137(a) or (b). Section 1.137(b) now provides that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

> (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In 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) ($675.00);
>
> (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and
>
> (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

The filing of a petition under the unintentional standard cannot be intentionally delayed and therefore should be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A

statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

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

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

By FAX: (571) 273-8300

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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TUCKER ELLIS & WEST LLP
1150 HUNTINGTON BUILDING
925 EUCLID AVENUE
CLEVELAND, OH 44115-1414

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OFFICE OF PETITIONS

In re Application of Kuwata et al. :
Application No. 10/383,409 : Decision on Petition
Filing Date: March 7, 2003 :
Attorney Docket No. 66329/22601 :

This is a decision on the petition filed March 12, 2009, which is being treated as a petition under 37 CFR 1.183 to waive the need for the signatures of all the inventors on 37 CFR 1.131 declarations.

The petition is **dismissed**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are NOT permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.183."

Facts

In order to file an affidavit or declaration pursuant to 37 CFR 1.131, petitioner took steps to obtain the signatures of the inventors. Petitioner obtained the signatures of inventors Kuwata and Su. Petitioner has not obtained the signature of inventor Truc Nguyen.

Letters sent to the last known address for Nguyen have been returned to sender.

The petition is signed by Attorney Susan Mizer. Attorney Mizer states, to the best of her knowledge, Nguyen has moved back to Vietnam.

The statement of Michael Yeung asserts attempts to contact Nguyen by email have failed.

Discussion

37 CFR 1.131(a) states,

> When any claim of an application or a patent under reexamination is rejected, the inventor of the subject matter of the rejected claim, the owner of the patent under reexamination, or the party qualified under §§ 1.42, 1.43, or 1.47, may submit an

appropriate oath or declaration to establish invention of the subject matter of the rejected claim prior to the effective date of the reference or activity on which the rejection is based.

The Office has stated the signature requirements can be waived in certain circumstances.

(1) The assignee or other party in interest can sign the affidavit or declaration if none of the inventors will sign the declaration. See MPEP 715.04.

(2) The affidavit or declaration can be signed by fewer than all the inventors if the other inventors are deceased, refuse to sign, or are unavailable. The affidavit or declaration must show reduction to practice or conception of the invention coupled with due diligence by the non-signing inventors.

In this case, petitioner has failed to demonstrate inventor Nguyen is unavailable.

An inventor is considered to be unavailable when a party is unable to locate the inventor after diligent effort. In this case, petitioner has failed to establish diligent effort has been made to locate the inventor.

Petitioner indicates mail was sent to Nguyen's last known address and the statement by Yeung appears to indicate petitioner attempted to contact Nguyen at his last known address. These steps, *without more*, do not constitute diligent effort to locate Nguyen. However, these steps may well be adequate for purposes of the instant petition if Nguyen has in fact moved back to Vietnam.

Although the petition indicates Attorney Mizer believes Nguyen has relocated to Vietnam, the petition fails to include any evidence to support the belief. Any request for reconsideration should include evidence demonstrating Nguyen has moved to Vietnam or evidence of additional steps taken by petitioner to locate Nguyen. Additional steps that may be taken include, but are not limited to, conducting an internet search to locate Nguyen and contacting directory assistance to determine telephone numbers for all individuals named Truc Nguyen in San Diego.

As a courtesy, the Office has conducted an internet search based on an assumption Nguyen is still located within the United States. The search results indicate one of the following telephone numbers *may* belong to Nguyen: (858) 566-2504, (858) 578-3100, and (858) 792-8886. The search results indicate Nguyen may currently reside at 5297 Greenwillow Lane, San Diego, CA 92129-5058. Unless petitioner is sure Nguyen is now in Vietnam, petitioner may wish to try to contact Nguyen at the phone numbers and address above. The fact the Office has conducted a search does not, if the phone numbers and address are incorrect, release petitioner from the obligation to exercise diligent effort to find the non-signing inventor.

Fees

One a fully executed declaration has been filed, Rule 47 will not apply to the requirement for an inventor's signature on future papers filed in an application. In this case, a fully executed declaration was filed June 13, 2003. Therefore, Rule 47 is inapplicable to the instant situation.

The instant situation is addressed in MPEP 715.04 which states, with emphasis added,

> Where one or more of the named inventors of the subject matter of the rejected claim(s) (who had originally signed the oath or declaration for patent application under 37 CFR 1.63) is now unavailable to sign an affidavit or declaration under 37 CFR 1.131, the affidavit or declaration under 37 CFR 1.131 may be signed by the remaining joint inventors provided a *petition under 37 CFR 1.183* requesting waiver of the signature of the unavailable inventor be submitted with the affidavit or declaration under 37 CFR 1.131. Proof that the non-signing inventor is unavailable or cannot be found similar to the proof required for a petition under 37 CFR 1.47 must be submitted with the petition under 37 CFR 1.183 (see MPEP § 409.03(d)). Petitions under 37 CFR 1.183 are decided by the Office of Petitions (see MPEP § 1002.02(b)).

As indicated in the quoted language above, a petition under 37 CFR 1.183 is necessary for petitioner to obtain the requested relief. Therefore, the petition has been treated as a petition under 37 CFR 1.183.

Petitioner submitted $200 for the petition fee. However, the required fee for a petition under 37 CFR 1.183 is $400. Therefore, $200 has been charged to the deposit account listed in the petition.

Unless filed by EFS Web, further correspondence with respect to this matter should be addressed as follows:

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

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

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

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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P.O. Box 1450
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MORGAN & FINNEGAN, L.L.P.
3 WORLD FINANCIAL CENTER
NEW YORK, NY 10281-2101

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OFFICE OF PETITIONS

In re Application of	:	
LEE, James F.	:	
Application No. 10/383,425	:	DECISION ON PETITION
Filed: March 7, 2003	:	TO WITHDRAW
Attorney Docket No. **0506-4027**	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 27, 2007 and re-submitted August 31, 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 James W. Gould on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the sole named inventor James F. Lee at the address indicated below.

There is an outstanding Office action mailed October 15, 2007 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: **JAMES LEE**
42-06 220TH STREET
BAYSIDE, NY 11361

In the United States Patent and Trademark Office

Serial Number: 10/383427
Appn. Filed:
Applicant(s): John S Ogle
Appn. Title: Apparatus for Generating Planar Plasma Using Concentric Coils and Ferromagnetic Cores.
Examiner:
Group Art Unit:

Mailed: March 7, 2003

PETITION GRANTED

At: Milpitas, CA 95035

William Krynski
Special Program Examiner
TC 1700 2-10-05

Petition to Make Special

Assistant Commissioner for Patents
Washington, District of Columbia 20231

Sir:

Applicant hereby respectfully petitions that the above application be made special under MPEP Sec. 708.02 for the following reason; attached is a declaration in support thereof:

( ) I. Manufacturer Available*;
( ) II. Infringement Exists*;
( ) III. Applicant's Health Is Poor;
(x) IV. Applicant's Age is 65 or Greater;
( ) V. Environmental Quality Will Be Enhanced;
( ) VI. Energy Savings Will Result;
( ) VII. Recombinant DNA Is Involved*;
( ) VIII. Special Procedure: Search Was Made*;
( ) IX. Superconductivity Is Advanced.
( ) X. Relates to HIV/AIDS or Cancer*;
( ) XI. Counters Terrorism*,
( ) * Also attached, since reason I., II., VII, VIII, X or XI has been checked, is the $ Petition Fee pursuant to Rules 102 and 17(i).

Very respectfully,

John S Ogle
Signature

March 2, 2003
Date

John S Ogle
1472 Pashote Court Milpitas, California 95035

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

KODA & ANDROLIA
2029 CENTURY PARK EAST
SUITE 1430
LOS ANGELES CA 90067

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DEC 15 2006
OFFICE OF PETITIONS

In re Application of	:	
Kudara, et al.	:	
Application No. 10/383,429	:	DECISION ON PETITION
Filed: March 7, 2003	:	
Attorney Docket No. 200A 3371	:	

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed October 23, 2006.

The petition is **GRANTED.**

The above-identified application was held abandoned for failure to timely file a proper response to the final Office action mailed April 5, 2006. This Office action set a shortened statutory period for reply of three (3) months. The Office mailed a Notice of Abandonment on October 16, 2006.

On petition, applicant asserts that he timely filed an RCE, together with a one month extension of time, on August 4, 2006. In support thereof, applicant has included *prima facie* evidence of its filing by submitting a copy of an Auto Reply Facsimile Transmission Receipt. See MPEP 503.

In view thereof, **the holding of abandonment is withdrawn.**

The Notice of Abandonment is hereby **VACATED.**

The $790 RCE fee has been charged to Deposit Account No. 11-1445. The $120 fee for the one month extension of time was previously charged to the deposit account on August 4, 2006.

The matter is being forwarded to Group Art Unit 2627 for consideration of the RCE, filed on August 4, 2006.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
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OFFICE OF PETITIONS

KIMBERLY-CLARK WORLDWIDE, INC.
401 NORTH LAKE STREET
NEENAH WI 54956

In re Application of :
Duane Lyle McDonald :
Application No. 10/383,432 : ON PETITION
Filed: March 6, 2003 :
Attorney Docket No. 18,744 :

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 11, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 3653 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

---

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

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Neifeld IP Law, PC
4813-B Eisenhower Avenue
Alexandria, VA 22304

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OFFICE OF PETITIONS

In re Application of :

Hardeep Wadhwa :
Application No. 10/383,433 :
Filed: March 7, 2003 :
Attorney Docket No. LEXO0016U-US :

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 6, 2007.

The request is **APPROVED**.

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

The request was signed by Richard Neifeld on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There is no outstanding Office action at this time.

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: **Hardeep Wadhwa**
Ind-Swift Limited
781 Industrial Area, Phase II
Chandigarh, 160 002

cc: **Darby & Darby P.C.**
1500 K Street, N.W., Suite 250
Washington, D.C. 20005-1714

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
10/383,433	03/07/2003	Hardeep Wadhwa	LEXO0016U-US

CONFIRMATION NO. 1561

POWER OF ATTORNEY NOTICE

31518
NEIFELD IP LAW, PC
4813-B EISENHOWER AVENUE
ALEXANDRIA, VA 22304

OC000000026792491

Date Mailed: 11/16/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/06/2007.

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

/tswilliams/

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

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Paper No. 5

Pandiscio & Pandiscio
470 Totten Pond Road
Waltham MA 02451-1914

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OFFICE OF PETITIONS

In re Application of
Ward and Narayanan
Application No. 10/383,436
Filed: March 7, 2003
Attorney Docket No. COREXROS-55

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed October 9, 2003 (certificate of mailing of October 6, 2003). Applicants obtained a three-month extension of time to respond. Therefore, the petition is filed timely.

The petition is **dismissed**.

Applicants are given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should 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 7, 2003, without an executed oath or declaration. Accordingly, on May 6, 2003, the Office mailed a "Notice to File Missing Parts of Application," requiring replacement drawings in compliance with 37 CFR 1.84 and 1.121,[1] an executed oath or declaration and a surcharge.

In response, on October 9, 2003 (certificate of mailing October 6, 2003), applicants filed the present petition, a request for a three-month extension of time, and a declaration signed by inventor Babu Narayanan on behalf of himself and Robert Ward, the nonsigning inventor.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an

---

[1] **Applicant is reminded that applicant must submit replacement drawings with an extension of time in response to the Notice of May 6, 2003, to avoid abandonment. The Notice set forth a two-month extendable period to respond. The time period remains as stated in the Notice.**

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. Applicants lack items (2) as set forth above.

As to item (2), applicants failed to submit an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64. The declaration does not identify the country of citizenship of inventor Ward. The Office notes that the oath or declaration must identify the country of citizenship of each inventor. See 37 CFR 1.63(a)(3). Accordingly, to correct the deficiencies, applicants must submit an oath or declaration in compliance with 37 CFR 1.63 and 1.67, which identifies the entire inventive entity, the citizenship of each inventor, and is signed by Mr. Narayanan on behalf of the nonsigning inventor, Mr. Ward.

Further correspondence with respect to this matter should be addressed as follows and **to the attention of Christina Tartera Donnell, Senior Petitions Attorney:**

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

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

(Facsimile transmissions submitted after December 1, 2003, should sent to (703) 872-9306).

By hand: 2011 South Clark Place
Customer Window
Crystal Plaza 2, Lobby,
Room 1B03
Arlington, VA 22202

Telephone inquiries related to this decision may 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
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Paper No. 13

JOHN C. GORECKI
165 HARVARD STREET
NEWTON, MA 02460

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DEC 3 0 2003

OFFICE OF PETITIONS

In re Application of Ward, et al. Application No. 10/383,436 Filed: March 7, 2003 Title: METHOD AND APPARATUS FOR PROVIDING SPARING CAPACITY FOR OPTICAL SWITCHES	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 December 18, 2003.

Petitioner has submitted a Declaration executed by the previously non-signing inventor Robert Ward in compliance with 37 CFR 1.63. Therefore, in view of the joinder of the inventors, further consideration under 37 CFR 1.47(a) is not necessary and the petition is considered moot. This application does not require 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)

Telephone inquiries regarding 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

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
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Paper No. 14

JOHN C. GORECKI
165 HARVARD STREET
NEWTON, MA 02460

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JAN 06 2004

OFFICE OF PETITIONS

In re Application of	:	
Ward, et al.	:	
Application No. 10/383,436	:	ON PETITION
Filed: March 7, 2003	:	
Attorney Docket No. 15326XRUS02U	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 18, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed May 6, 2003. The Notice set a period for reply of two (2) months from the mail date of the Notice. A three 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 October 7, 2003.

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

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 306-9200.

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

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United States Patent and Trademark Office
P.O. Box 1450
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PDL BIOPHARMA INC
ATTN: LEGAL DEPARTMENT
34801 CAMPUS DRIVE
FREMONT CA 94555

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SEP 1 2 2007

OFFICE OF PETITIONS

In re	:
Bhaskar, et al.	: DECISION REGARDING
Application No. 10/383,447	: PATENT TERM ADJUSTMENT
Filed: March 7, 2003	:
Attorney Docket No. 148 US UT01	:
	:

This letter is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT DETERMINATION UNDER 37 C.F.R. § 1.705(b)", filed June 11, 2007. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from five hundred forty-four (544) days to six hundred twenty-nine (629) days.

The application for patent term adjustment is **DISMISSED**.

On May 21, 2007, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is five hundred forty-four (544) days. On June 11, 2007, 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 six hundred twenty-nine (629) days.

Applicants state that the patent issuing is not subject to a terminal disclaimer.

---

[1] Applicants filed the application for patent term adjustment prior to the filing of the issue fee.

The Office initially determined a patent term adjustment of five hundred forty-four (544) days based on an adjustment for PTO delay of six hundred twenty-nine (629) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1), reduced by Applicants' delay of eighty-five (85) days pursuant to 35 U.S.C. 154(b)(2)(C)(iii) and 37 C.F.R. § 1.704(c)(8). The adjustment of eighty-five (85) days is at issue.

A review of the application file reveals that applicants filed a Supplemental Information Disclosure Statement (IDS) on November 9, 2006, after they had previously filed a response on August 16, 2006. The IDS did not contain a proper 37 C.F.R. § 1.704(d) statement. The IDS contained a statement that "each item contained in this Statement was first cited in **a** communication from a foreign patent office in a counterpart application"... and that "this communication was not received by any individual designated in 37 C.F.R. §1.56(c) more than thirty days prior to the filing of this Statement." § 1.704(d) states that an IDS will not be considered a failure to engage under (c)(8) if it is accompanied by a statement that "each item of information contained in the information disclosure statement was first cited in **any** communication from a foreign patent office in a counterpart application and that this communication was not received" more than thirty days prior to the filing of the IDS.

Applicants should have mirrored the language of as required by § 1.704(d). Accordingly, applicant delay of eighty-five (85) days was properly assessed pursuant to 37 C.F.R. § 1.704(c)(8).

In view thereof, the correct determination of patent term adjustment is **five hundred forty-four (544) days**.

If applicants want to make the proper assertion, then applicants may file a Request for Reconsideration of this patent term adjustment decision, with a statement mirroring the language of § 1.704(d). Patentees are given **two (2) months** to respond to this decision. No additional fee is required. No extensions of time will be granted under 37 C.F.R. § 1.136(a).

Receipt of the $200 fee under 37 C.F.R. § 1.18(e) is acknowledged.

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

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

Kery A Fries
for

Nancy Johnson
Senior Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 08-31-09

TO SPE OF : ART UNIT 1643

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/383447 Patent No.: 7288248

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Angela Green
Certificates of Correction Branch
703-756-1541

Thank You For Your Assistance

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

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

Comments: _____

LARRY R. HELMS, PH.D.
SUPERVISORY PATENT EXAMINER

SPE — Art Unit 1643

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Pet. Sec.

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ALEXANDRIA, VA 22313-1450
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VP
PAPER NO. ___

JUN 29 2004

In re Application of
David G. Cormier
Serial Number: 10/383,456
Filed: March 6, 2003
For: SOLUTION DISPENSING DEVICE

PETITION UNDER
MPEP 708.02 VIII

This is in response to the Petition to Make Special filed March 22, 2004, requesting that the above-identified application be granted Special Status under section 708.02 VIII of the MPEP and 37 CFR 1.102(d). The fee set forth in 37 CFR 1.17(h) has been paid.

The criteria set forth in section 708.02 VIII of the MPEP and 37 CRF 1.102(d) have been met.

Accordingly the petition is **GRANTED.**

William A. Krynski, Special Programs Examiner
Technology Center 1700
Chemical and Materials Engineering

GREENBERG TRAURIG LLP
2450 COLORADO AVENUE, SUITE 400E
SANTA MONICA CA 90404

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Paper No. 13

HUGH R. KRESS, BROWNING BUSHMAN PC
5718 WESTHEIMER, SUITE 1800
HOUSTON, TX 77057

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SEP 1 2 2004

OFFICE OF PETITIONS

In re Application of	:	
David M. Fallen et al	:	
Application No. 10/383,458	:	DECISION GRANTING PETITION
Filed: March 6, 2003	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. NovoSci-18/US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 12, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the nonfinal Office action of January 27, 2004, which set a shortened statutory period for reply of three months. 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 April 28, 2004. A Notice of Abandonment was mailed on August 12, 2004.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Since the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3).

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply; (2) the petition fee; and (3) an adequate statement of unintentional delay have been received. Accordingly, the reply to the nonfinal Office action of January 27, 2004 is accepted as having been unintentionally delayed.

Petitioner has submitted a terminal disclaimer with the instant petition to revive. However, the filing of a terminal disclaimer

is unnecessary as a condition for revival under the provisions of 37 CFR 1.137(b) and will not be processed. *Note* 37 CFR 1.137(d). Accordingly, the terminal disclaimer fee submitted therefor is unnecessary and will be refunded to petitioner's deposit account.

Further, extensions of time under 37 CFR 1.136 are available only if asked for "prior to or with the response." In no case, however, may an applicant respond later than the maximum time period set by statute. Accordingly, if the question of abandonment arises when the provisions of 37 CFR 1.136 can no longer be used, then the application is abandoned when the unextended time for response expired. Therefore, no extension fees are due on a petition for revival. In view thereof, the extension of time fee submitted with the petition is also unnecessary and will be refunded to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-8680.[1]

The application file is being forwarded to Technology Center AU 3762 for appropriate action as the nature of the case may require.

Frances Hicks

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

---

[1] Effective September 27, 2004, the new phone number will be 571-272-3218.

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Paper No. 5

BAKER BOTTS L.L.P.
2001 ROSS AVENUE
SUITE 600
DALLAS, TX 75201-2980

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DEC 15 2003

OFFICE OF PETITIONS

In re Application of:
Gilbert Levesque, Malais Wong
and Richard P. Steckler
Application No. 10/383,461
Filed: March 6, 2003
Title of Invention: ELEMENT MANAGEMENT SYSTEM WITH ADAPTIVE INTERFACING SELECTED BY LAST PREVIOUS FULLY-QUALIFIED MANAGED LEVEL

DECISION GRANTING STATUS UNDER 37 CFR 1.47

This Decision is in response to a Petition Under 37 C.F.R. 1.47(a), filed October 20, 2003, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor(s).

The petition is **granted**.

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

Petitioner has shown that the non-signing inventor, Malais Wong, refuses to join in the application.

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

The application file is being returned to the Office of Initial Patent Examination for continued processing.

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

Derek L. Woods
Petitions Attorney
Office of Petitions

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Malais Wong
2470 Pinto Court
Morgan Hill, CA 95037

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DEC 15 2003

OFFICE OF PETITIONS

In re Application of:
Gilbert Levesque, Malais Wong
and Richard P. Steckler
Application No. 10/383,461
Filed: March 6, 2003
Title of Invention: ELEMENT MANAGEMENT SYSTEM WITH ADAPTIVE INTERFACING SELECTED BY LAST PREVIOUS FULLY-QUALIFIED MANAGED LEVEL

LETTER

Dear Ms. Wong:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at (703) 305-0014. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Derek L. Woods
Petitions Attorney
Office of Petitions

cc: BAKER BOTTS L.L.P.
2001 ROSS AVENUE
SUITE 600
DALLAS, TX 75201-2980

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Vincent J. Gnoffo
Brinks Hofer Gilson & Lione
P O Box 10395
Chicago, IL 60610

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MAY 2 5 2006

OFFICE OF PETITIONS

In re Application of	:	
Timothy M. Yablonowski et al	:	
Application No. 10/383,471	:	DECISION ON PETITION
Filed: March 6, 2003	:	TO WITHDRAW
Attorney Docket No. 6551/190	:	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 22, 2005.

The request is **NOT APPROVED**.

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

The record discloses that a transmittal letter submitted with the filing of the above application stated that the power of attorney to Vincent J. Gnoffo of the firm of Brinks Hofer Gilson & Lione appears in the original papers in the prior application. No copy of the power of attorney from the previous application or a power of attorney has been filed in this application. Nevertheless, while Vincent J. Gnoffo does not have power of attorney in this patent application, he has been employed or otherwise engaged in the proceedings in this patent application.

The request to withdraw cannot be approved at this time because it fails to set forth the reason(s) for the requested withdrawal as required by 37 CFR 10.40. Therefore, the request cannot be granted under 37 CFR 1.36(b) until petitioner has complied with the provisions of 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.

A further review of the file record for this application discloses in the transmittal letter that the inventorship of this application is to Timothy M. Yablonowski, Joseph C. Notarianni, Clarence W. Russell and Orlando M. Riera, despite the fact that the declaration submitted with the application was executed only by inventor Timothy M. Yablonowski, with no other indication

that there were in fact other inventors. In response to a Notice of Nonprovisional Application, which required the signatures of the other named inventors, an executed oath or declaration by all the inventors named on the transmittal was received. On October 12, 2005, a revocation of the power of attorney executed only by inventor Timothy M. Yablonowski was received. On May 24, 2006, a notice of nonacceptance of the power of attorney was mailed to the attorney being appointed because the signatures of the other named inventors were missing. Accordingly, a proper power of attorney executed by all the named inventors must be received if applicants desire to have the practitioners associated with Customer Number 39820 receive future correspondence regarding this application. A courtesy copy of this decision is being mailed to the practitioners at Customer Number 39820, as well as to the address noted on the request for withdrawal of attorney, which appears to be the address of the assignee in this application.

A non-final Office action was mailed to the above address of record on January 30, 2006, which set a three month extendable period for reply. There is no indication to date that a reply thereto has been received. Applicants are reminded that failure to timely reply will result in the abandonment of the application.

Telephone inquiries concerning this decision should be directed to Frances Hicks at 571-272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

cc:

Edward M. Livingston, PA
963 Trail Terrace Drive
Naples, FL 34103

ULTRAWATT®
Energy Systems, Inc.
6381 Metro Plantation Road
Fort Myers, FL 33912

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BRINKS HOFER GILSON & LIONE
P O BOX 10395
CHICAGO, IL 60610

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JUL 2 6 2006

OFFICE OF PETITIONS

In re Application of	:	
Timothy M. Yablonowski et al	:	
Application No. 10/383,471	:	DECISION ON PETITION
Filed: March 6, 2003	:	TO WITHDRAW
Attorney Docket No. 6551/190	:	FROM RECORD
	:	

This is a decision on the second Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 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). Additionally, the request must state the reasons for the requested withdrawal. *Note* 37 C.F.R. § 10.40.

The request was signed by Vincent J. Gnoffo on behalf of all the attorneys of record. As the request complies with the above requirements, the attorneys of record have been withdrawn. Accordingly, Applicant is reminded that there is no attorney of record at this time

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R. § 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant. A courtesy copy of this decision is being mailed to Edward M. Livingston at the address noted on the request to withdraw. However, if Mr. Livingston desires to prosecute this application and receive future correspondence relating to this file, the appropriate power of attorney documents should be submitted. If the power of attorney is signed by an assignee, compliance with 37 C.F.R. § 3.73(b) must be satisfied. If the power of attorney is by the applicant, all applicants must sign.

A non-final Office action was mailed to the above address of record on January 30, 2006, which set a three-month extendable period for reply. A reply was received on May 25, 2006. Accordingly, the Technology Center will take this case up for action in the normal course of business.

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

Frances Hicks
Petitions Examiner
Office of Petitions

cc:

Timothy M. Yablonowski
13102 Bald Cypress Lane
Naples, FL 34119

Edward M. Livingston PA
963 Trail Terrace Drive
Naples, FL 34103

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pw DAC

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BRINKS HOFER GILSON & LIONE
P O BOX 10395
CHICAGO, IL 60610

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JUL 26 2006

OFFICE OF PETITIONS

In re Application of	:	
Timothy M. Yablonowski et al	:	
Application No. 10/383,471	:	DECISION ON PETITION
Filed: March 6, 2003	:	TO WITHDRAW
Attorney Docket No. 6551/190	:	FROM RECORD
	:	

This is a decision on the second Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 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). Additionally, the request must state the reasons for the requested withdrawal. *Note* 37 C.F.R. § 10.40.

The request was signed by Vincent J. Gnoffo on behalf of all the attorneys of record. As the request complies with the above requirements, the attorneys of record have been withdrawn. Accordingly, Applicant is reminded that there is no attorney of record at this time

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R. § 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant. A courtesy copy of this decision is being mailed to Edward M. Livingston at the address noted on the request to withdraw. However, if Mr. Livingston desires to prosecute this application and receive future correspondence relating to this file, the appropriate power of attorney documents should be submitted. If the power of attorney is signed by an assignee, compliance with 37 C.F.R. § 3.73(b) must be satisfied. If the power of attorney is by the applicant, all applicants must sign.

A non-final Office action was mailed to the above address of record on January 30, 2006, which set a three-month extendable period for reply. A reply was received on May 25, 2006. Accordingly, the Technology Center will take this case up for action in the normal course of business.

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

Frances Hicks
Petitions Examiner
Office of Petitions

cc:

Timothy M. Yablonowski
13102 Bald Cypress Lane
Naples, FL 34119

Edward M. Livingston PA
963 Trail Terrace Drive
Naples, FL 34103

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
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Paper No. 3

FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK NY 10112

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AUG 15 2003
OFFICE OF PETITIONS

In re Application of
Nishikawa et al.
Patent No. 6,507,411
Issued: January 14, 2003
Application No. 09/348,561
Filed: July 7, 1999
Attorney Docket No. 862.2916

In re Application of
Nishikawa et al.
Application No. 10/383,491
Filed: November 27, 2002
For: Printing Control Method and Apparatus

DECISION GRANTING PETITION

This is a decision on petition under 37 CFR § 1.182, filed April 3, 2003, requesting that a Continued Prosecution Application (CPA) under 37 CFR § 1.53(d) be treated as an application under 37 CFR § 1.53(b) and be accorded a filing date of November 27, 2002.

On July 22, 2002, a Notice of Allowance and Issue Fee Due and a Notice of Allowability were mailed in application No. 09/348,561, which set a three (3) month statutory period for reply. On October 22, 2002, applicants paid the issue fee. Thereafter, on November 27, 2002, applicants filed a petition under 37 CFR 1.313(c) to withdraw the application from issue and a CPA under 37 CFR § 1.53(d) based on prior application No. 09/348,561. On December 24, 2002, applicants submitted an Information Disclosure Statement in application No. 09/348,561, which cited two references listed in a corresponding Japanese Application. Unfortunately, the petition under 37 CFR 1.313(c) was not acted upon prior to application No. 09/348,561 being issued as U.S. Patent No. 6,507,411 on January 14, 2003.

The Office notes:

> If applicant wants the PTO to disregard a previously filed request for a CPA (and not recognize its inherent request to expressly abandon the prior application) and to treat the paper as the filing of an application under 37 C.F.R. § 1.53(b), the applicant must file a petition under 37 C.F.R. § 1.182. A request to expressly abandon an application is not effective until the abandonment is acknowledged, including the express abandonment of the prior application of a CPA that occurs by operation of 37 C.F.R. § 1.53(d)(2)(v). See Changes to Patent Practice and Procedure; Training and Implementation Guide, Question and Answer 66 (December 1997). The express abandonment of the prior application is acknowledged and becomes effective upon processing and entry of the CPA into the file of the prior application. Thus, such a petition under 37 C.F.R. § 1.182 should be filed expeditiously since the petition will not be granted once the request for a CPA has been entered into the prior application (and the inherent request to expressly abandon the prior application has been acknowledged). If the request for a CPA has been entered into the prior application by the time the petition under 37 C.F.R. § 1.182 and the application file are before the deciding official for a decision on the petition, the petition will be denied.

MPEP 201.06(d).

Since the CPA request has not been entered into the prior application, the request to expressly abandon the prior application has not been acknowledged. Accordingly, the petition is proper and timely filed. It is noted that the CPA request was filed on November 27, 2002, while the prior application was still pending, and was accompanied by the specification, declaration, and drawings.

Applicants state that the CPA was filed on November 27, 2002, and request that the application under 37 CFR 1.53(b) be accorded the filing date of November 27, 2002. Upon review, it appears that the CPA request was received by the Office on November 27, 2002. Therefore, the application under 1.53(b) will be accorded the filing date of November 27, 2002.

Accordingly, the petition is granted to the extent indicated above.

Applicants are advised that 37 CFR 1.78 requires that any nonprovisional application claiming benefit of one or more prior-filed copending nonprovisional applications contain, or be amended to contain, a reference to each such prior-filed application, identifying it by application number and indicating the relationship of the applications (i.e., continuation, divisional, or continuation-in-part). This reference must be included in an application data sheet (37 CFR 1.76) or the specification must contain, or be amended to contain, such reference in the first sentence following the title. See 37 CFR 1.78(a)(2). Accordingly, a preliminary amendment to the specification to add the required reference, in compliance with 37 CFR 1.121, or an application data sheet including the required reference should be promptly filed.

The continuation application under 37 CFR 1.53(b) filed on November 27, 2002, has been assigned application No. 10/383,491. All further correspondence concerning the continuation application under 37 CFR 1.53(b) should be directed to application No. 10/383,491, not application No. 09/348,561.

The Office finance records will be corrected to show that the $740.00 filing fee paid on November 27, 2002, and the $130.00 petition fee paid on March 10, 2003, were paid in application No. 10/383,491, not in application No. 09/348,561.

Application No. 09/348,561 will be forwarded to Files Repository.

Application No. 10/383,491 will be forwarded to the Office of Initial Patent Examination for further processing as an application filed under 37 CFR 1.53(b), not under 37 CFR 1.53(d), with the filing date of November 27, 2002, using the copies of the specification, drawings and declaration filed on that date.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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APR 22 2004

WOOD & EISENBERG
2009 NORTH 14TH STREET
SUITE 706
ARLINGTON VA 22201

In re Application of	:
Adriano O. Scott	:
Serial No.: 10/383,534	: PETITION TO MAKE SPECIAL
Filed: March 10, 2003	:
Attorney Docket No.: 22015.00	:

This is in response to applicants' petition filed February 2, 2004, to make the above-identified application special under the provisions of 37 CFR 1.102(d) based on infringement.

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, II, relating to actual or potential infringement. Therefor the petition is **GRANTED**.

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

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission to the Office general facsimile number 703-872-9306.

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

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

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DEC 0 2 2004

OFFICE OF PETITIONS

In re Patent No. 6,822,319	:	
Issued : November 23, 2004	:	
Application No. 10/383,536	:	DECISION GRANTING PETITION
Filed: March 10, 2003	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 50626.51	:	

This is a decision on the petition, filed November 18, 2004, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant non-provisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on July 11, 2003. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

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

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

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

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

This application matured into Patent No. 6,822,319 on November 28, 2004. Therefore, no further action being required.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3282.

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

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JAGTIANI + GUTTAG
10363-A DEMOCRACY LANE
FAIRFAX, VA 22030

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OFFICE OF PETITIONS

In re Application of	:	
Michael Duncan, et al.	:	
Application No. 10/383,551	:	DECISION ON PETITION
Filed: March 10, 2003	:	TO WITHDRAW
Attorney Docket No. 22409-00390-US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 9, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Jagtiani & Guttag has been revoked by the assignee of the patent application on February 27, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: JAYNE ANDREWS, PATENT MANAGER
COCHLEAR LIMITED
14-16 MARS ROAD
LANE COVE, NSW 2066
AUSTRALIA

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#5

Paper No. 5

YA-CHIAO CHANG
C/O BAKER & MCKENZIE
29TH FLOOR
805 THIRD AVENUE
NEW YORK NY 10022

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OCT 14 2003

OFFICE OF PETITIONS

In re Application of	:
Guo et al.	: DECISION GRANTING
Application No. 10/383,588	: PETITION
Filed: 10 March, 2003	:
Atty Dcket No. 87155176-002001	:

This is a decision on the petition filed on 31 July, 2003, requesting that the above-identified application, including 15 sheets of drawings and 52 pages of specification, including 46 claims, be accorded a filing date of 10 March, 2003.

The petition is **GRANTED**.

On 10 March, 2003, the application was filed.

On 5 June, 2003, Initial Patent Examination Division mailed a Notice of Incomplete Nonprovisional Application stating that the application had not been accorded a filing date because the application had been deposited without drawings and the specification did not include at least one claim. The Notice also stated that the abstract and a copy of the Sequence Listing were missing.

In response, on 31 July, 2003, the present petition and petition fee were filed. Petitioners filed a computer readable format (CRF) Sequence Listing and also supplied 52 pages of specification, including, 46 claims, and one sheet of abstract. Petitioners additionally supplied an itemized receipt postcard bearing an Office-date stamp dated 03/10/03 and bearing the above-identified application number and itemizing the filing of, *inter alia,* 68 pages of specification and claims and 15 sheets of drawings.

It is noted that the postcard itemizes more pages of specification, including claims, that the 52 pages that petitioner has supplied with the present petition. Since the individual at the USPTO who compared petitioners' postcard to the items received found that the specification as filed contained at least 52 pages, however, the evidence is persuasive that Pages 40-52 of the specification, including the claims, and 15 sheets of drawings were among the application papers received on 10 March, 2003, but were subsequently misplaced in the U.S. Patent and Trademark Office. The application, including Pages 40-52 of the specification and 15 sheets of drawings, is therefore entitled to a filing date of 10 March, 2003.

The application will be processed and examined using the copy of Pages 40-52 of the specification, including the claims, and the 15 sheets of drawings supplied with the petition filed on 31 July, 2003. The copies of the other application papers supplied with the petition will not be processed or entered, but will be retained in the application file.

The petition is **granted**. The petition fee paid with the petition filed on 31 July, 2003, is unnecessary. Petitioners may request a refund thereof by writing to the Office of Finance, ATTN: Refund Section. A copy of this decision should accompany petitioners' request. Alternatively, petitioners may request the petition fee be applied to any other fee due in the Office.

The application will be forwarded to the Office of Initial Patent Examination for further processing with a filing date of 10 March, 2003, using the application papers filed on that date and the copy of Pages 40-52 of the specification and 15 sheets of drawings supplied with the present petition, and for an indication in Office records that 46 claims were present on filing.

Telephone inquiries specific to this matter should be directed to the undersigned at (703) 308-6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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JOAN M. MCGILLYCUDDY
AKZO NOBEL INC.
7 LIVINGSTONE AVENUE, IP DEPARTMENT
DOBBS FERRY, NY 10522

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OFFICE OF PETITIONS

In re Application of :
Keimpe Jan Van Den Berg et al. :
Application No. 10/383,600 : ON PETITION
Filed: March 7, 2003 :
Attorney Docket No. ACO2926US :

This is a decision on the petition filed October 17, 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 September 24, 2005 for failure to timely pay the issue fee on or before September 23, 2005. The instant petition and this decision precede the mailing of a Notice of Abandonment.

The issue fee, petition fee and publication 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)).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20070611

DATE : June 10, 2007

TO SPE OF : ART UNIT 3618

SUBJECT : Request for Certificate of Correction on Patent No.: 7,137,637

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

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

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

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

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

☒ **Approved** **All** changes apply.

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

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

Comments:

SPE: Chris Ellis **Art Unit** 3618

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555 Eleventh Street, NW, Sixth Floor
Washington DC 20004

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OFFICE OF PETITIONS

In re Patent No. 7,381,708 :
Issue Date: June 3, 2008 :
Application No. 10/383,614 : DECISION GRANTING PETITION
Filed: March 10, 2003 :
Attorney Docket No. 2912940-011000 :

This is a decision on the petition, filed November 9, 2009 and supplemented on March 18, 2010, which is being treated as a petition under 37 CFR 1.78(a)(3), seeking to perfect a claim for priority under 35 U.S.C. § 120 to nonprovisional Application No. 10/277,969, filed October 23, 2002.

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 properly 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).

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) 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.

The instant application was filed March 10, 2003. Therefore, as set forth in MPEP 1481, 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. However, as the face of the instant patent properly lists the priority information, a Certificate of Correction is not necessary.

Any inquiries concerning this decision may be directed to Ramesh Krishnamurthy at (571) 272-4914.

Anthony Knight
Supervisor,
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : March 14, 2008

TO SPE OF : ART UNIT 3746

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/383628 Patent No.: 7108490 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.

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

Comments: _____

_____

_____

_____

_____

/Devon Kramer/ Devon Kramer SPE AU 3746

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OFFICE OF PETITIONS

Fitzpatrick, Cella, Harper & Scinto
30 Rockefeller Plaza
New York, New York 10112-3800

In re Application of
Yano et al.
Application No. 10/383,629
Filed: March 10, 2003
Patent No: 6,988,727 B2
Attorney Docket No. 01306.000082

: DECISION GRANTING PTA REQUEST

This is a decision on the "REQUEST FOR RECONSIDERATION Of PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(d)," timely[1] filed on March 22, 2006 requesting that the Office adjust the PTA calculation from 306 days to 426 days at the time of the issuance of the patent.

Patentees' request for reconsideration is **GRANTED.** The USPTO will adjust the PTA determination at the time of the issuance of the patent from a determination 306 to a determination of 426 days. The Office will also *sua sponte* issue a certificate of correction in the determined amount.

Patentees assert that the USPTO erred in assessing a 120-day reduction for the submission of a request for confirmation of consideration of IDS references on December 12, 2004. Patentees believe that the 120-day reduction is in error because such paper is not expressly enumerated as a failure to engage in reasonable efforts to conclude prosecution of the application under 37 CFR 1.704(c)(10).

Patentees' request is granted, however, the USPTO does not agree with patentees' rationale as to why such is not considered a reduction against earned PTA under 37 CFR 1.704(c)(10). Specifically, the USPTO agrees with patentees that the IDS confirmation request is not a failure to engage in reasonable efforts to conclude prosecution of the application under 37 CFR 1.704(c)(10) under the present facts. The Office notes that the IDS was submitted prior to either

[1]Patent issued on January 31, 2006.

an action within the meaning of 35 USC 132 or 151. The mailing of the notice of allowance was the first action by the Office and failed to include acknowledgment of the IDS. Accordingly, the USPTO will not reduce the PTA in this application because the acknowledgment request letter is the first opportunity patentees had to address the matter.[2] The Office also advises patentees that because a specific paper is not expressly mentioned in the clarification OG notice of June 26, 2001does not necessarily mean that such submission may not be considered a failure to engage in reasonable efforts to conclude prosecution of the application. The notice expressly states that the list includes examples and show not be viewed as being an exhaustive list.

The Office acknowledges authorization to charge a fee of the $200.00 fee set forth in 37 CFR 1.18(e). The Office had assessed the $200.00 fee.

The application file is being forwarded to the Certificate of Correction branch for a prompt issuance of the patent.

Telephone inquiries specific to this matter should be directed to Kery Fries at 571-272-7757.

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

cc: adjusted PAIR calculation
Draft Certificate of Correction

[2]The USPTO notes that the result would have been different if patentees would have submitted the IDS on the filing date of the application, received a non-final rejection not acknowledging the IDS, patentees respond but do not address the lack of acknowledgment, the Office then mails a notice of allowance. Under this factual scenario, applicant could have had the issue addressed in the response to the non-final and thus the Office will treat such scenario different than the present factual scenario.

PALM INTRANET

Day : Tuesday
Date: 9/5/2006
Time: 09:59:13

PTA Calculations for Application: 10/383629			
Application Filing Date:	03/10/2003	PTO Delay (PTO):	426
Issue Date of Patent:	01/24/2006	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	120
Post-Issue Petitions:	0	Total PTA (days):	426
PTO Delay Adjustment:	120		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
41	09/05/2006	ADJUSTMENT OF PTA CALCULATION BY PTO	120		
36	01/24/2006	PATENT ISSUE DATE USED IN PTA CALCULATION	242		30
35	11/28/2005	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
34	11/23/2005	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
33	11/14/2005	RECEIPT INTO PUBS			
32	11/14/2005	DISPATCH TO FDC			
31	11/14/2005	APPLICATION IS CONSIDERED READY FOR ISSUE			
30	01/27/2005	ISSUE FEE PAYMENT VERIFIED			
29	11/02/2005	RECEIPT INTO PUBS			
28	10/27/2005	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
27	10/25/2005	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
26	09/22/2005	PUBS CASE REMAND TO TC			
25	12/02/2004	REFERENCE CAPTURE ON IDS			
24	12/02/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		120	28
23	03/29/2005	RECEIPT INTO PUBS			
22	02/28/2005	MAIL ACKNOWLEDGEMENT OF PRIORITY PAPERS			
21	02/25/2005	ACKNOWLEDGEMENT OF PRIORITY PAPERS			
20	02/16/2005	RECEIPT INTO PUBS			
19	01/27/2005	ISSUE FEE PAYMENT RECEIVED			
18	11/16/2004	EXPORT TO INITIAL DATA CAPTURE			
17	11/29/2004	RECEIPT INTO PUBS			

16	11/24/2004	WORKFLOW - FILE SENT TO CONTRACTOR			
15	11/10/2004	MAIL NOTICE OF ALLOWANCE	184		-1
14	11/09/2004	ISSUE REVISION COMPLETED			
13	11/09/2004	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
12	11/09/2004	NOTICE OF ALLOWABILITY			
11	08/10/2004	CASE DOCKETED TO EXAMINER IN GAU			
10	07/22/2004	CASE DOCKETED TO EXAMINER IN GAU			
9	05/09/2004	CASE DOCKETED TO EXAMINER IN GAU			
8	02/10/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
7	06/11/2003	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
6	06/30/2003	CASE DOCKETED TO EXAMINER IN GAU			
5	06/03/2003	TRANSFER INQUIRY TO GAU			
4	05/12/2003	APPLICATION DISPATCHED FROM OIPE			
3	05/12/2003	APPLICATION IS NOW COMPLETE			
2	03/26/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	03/10/2003	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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1940 DUKE STREET
ALEXANDRIA VA 22314

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FEB 20 2008

In re Application of	:	
Takeshi Kajiyama	:	
Application No. 10/383,632	:	ON PETITION
Filed: March 10, 2003	:	
Attorney Docket No. 234384US2S	:	

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed July 30, 2004. The petition was recently forwarded to the Office of Petitions for consideration.

The petition is **GRANTED**.

This application was held abandoned for failure to timely file a response to the non-final Office action mailed October 27, 2003. This Office action set an extendable period for reply of three (3) months. No reply having been received, the application became abandoned on January 28, 2004. A Notice of Abandonment was mailed on June 16, 2004.

Petitioner contends that he did timely file a reply. In support, petitioner has included a copy of a USPTO date stamped postcard receipt dated January 27, 2004, and itemizing a 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.

In view thereof, **THE HOLDING OF ABANDONMENT IS WITHDRAWN.**

The application file is being forwarded to Group Art Unit 2815 for consideration of the amendment filed January 27, 2004 (copy supplied with the instant petition).

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

Cliff Congo
Petitions Attorney
Office of Petitions

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BINGHAM MCCUTCHEN, LLP
2020 K STREET, NW
BOX IP
WASHINGTON DC 20006

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OFFICE OF PETITIONS

In re Application of	:	
Bloom et al.	:	
Application No. 10/383,641	:	DECISION ON PETITION
Filed: 03/10/2003	:	
Attorney Docket No. 19111.0084	:	

This is a decision on the petition under 37 CFR 1.181 (no fee), filed December 31, 2007, requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the final Office action mailed April 2, 2007, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on October 30, 2007.

Petitioner asserts that the final Office action dated October 30, 2007, 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 and docketed must be attached to and referenced in the practitioner's statement.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition satisfies the above-stated requirements. Accordingly, the application was not abandoned in fact.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The Office acknowledges receipt of the Request for Continued Examination ("RCE") (and fee) and the submission required by 37 CFR 1.114 submitted with the petition on December 31, 2007.

Telephone inquiries concerning this decision should be directed to the undersigned at (571)

This application is being referred to Technology Center AU 2129 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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Paper No. 06052005

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

In re Application of:	:	
Eisuke MORIUCHI ET AL.	:	PETITION FOR CORRECTION OF
Serial No.: 10/383,647	:	INVENTORSHIP
Filed: March 10, 2003	:	UNDER 37 CFR § 1.48(a)
Attorney Docket No.: 115342	:	

This is a decision on the petition filed April 25, 2005 to correct inventorship under 37 CFR 1.48 (a).

The petition is GRANTED.

In view of the papers filed April 25, 2005 it has been found that this nonprovisional application, as filed, through error and without deceptive intent, improperly set forth the inventorship, and accordingly, this application has been corrected in compliance with 37 CFR 1.48 (a). The inventorship of this application has been changed by deleting the name:

Hiroyuki Yoshida

The application will be forwarded to the Office of Initial Patent Examination (OIPE) for issuance of a corrected filing receipt, and correction of Office records to reflect the inventorship as corrected.

Gregory J. Toatley, Jr.
Supervisory Patent Examiner,
Art Unit 2877

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OFFICE OF PETITIONS

In re Application of
Nakajima, Kashiba & Chuma
Application No.: 10/383,650
Filed: March 10, 2003
Attorney Docket No.: 231593US2
For: POWER SEMICONDUCTOR DEVICE

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed July 22, 2003.

The petition is **DISMISSED**.

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

The above-identified application was filed on March 10, 2003 without an executed oath or declaration. On May 22, 2003, a Notice to File Missing Parts of Nonprovisional Application (Notice) was mailed. This Notice required petitioners to file an executed declaration and a surcharge for its late filing within two months of the mail date of the Notice.

In response, on July 22, 2003, a declaration executed by 2 of 3 joint inventors, the surcharge, the petition fee, and the instant petition were filed. A declaration of facts of Yasuo Imamura, section manager of the intellectual property section of a party in interest, accompanies the petition. Mr Imamura states that non-signing joint inventor Hideaki Chuma was mailed a copy of the application, as well as a declaration, and an assignment for his execution, and that his wife returned the declaration and assignment unsigned along with a letter stating that her husband cannot sign the forms.

A grantable petition under 37 CFR 1.47(a) requires

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

This petition lacks item (2) above.

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 still has not been presented. It is noted that the non-signer's post office address is his former employer's address. Given the fact that Mr. Chuma is no longer affiliated with Fukuryo

Semi-Con Engineering Corporation, it is assumed that he does not receive mail there.

The available inventors must execute a new declaration that lists the residence and most recent home address or mailing address for Mr. Chuma. MPEP 605.03

An oath or declaration in compliance with 37 CFR 1.63 and 1.64 signed by the Rule 1.47 applicants on behalf of Mr. Chuma is REQUIRED. See MPEP 409.03(a).

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

By mail:	Mail Stop PETITION Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By facsimile:	(703) 308-6916 Attn: Office of Petitions
By hand:	Office of Petitions 2201 South Clark Place Crystal Plaza 4, Suite 3C23 Arlington, VA 22202

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 7

OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

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OFFICE OF PETITIONS

In re Application of
Nakajima, Kashiba & Chuma
Application No.: 10/383,650
Filed: March 10, 2003
Attorney Docket No.: 231593US2
For: POWER SEMICONDUCTOR DEVICE

DECISION ACCORDING STATUS
UNDER 37 CFR 1.47(a)

This is a decision on the reconsideration petition under 37 CFR 1.47(a), filed October 22, 2003.

The petition is granted.

Petitioners have shown that the non-signing inventor, Hideaki Chuma, has constructively refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the declaration of facts of Yasuo Imamura, section manager of the intellectual property section of a party in interest, states that Mr. Chuma was mailed a copy of the application, as well as a declaration, and an assignment for his execution, and that his wife returned the declaration and assignment unsigned along with a letter stating that her husband cannot sign the forms. Mr. Chuma's pattern of avoidance establishes a constructive refusal to sign the declaration. Petitioners have submitted a declaration in compliance with 37 CFR 1.63 and 1.64.

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

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 2800 for examination in due course.

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

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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HEWLETTT-PACKARD COMPANY
INTELLECTUAL PROPERTY ADMINISTRATION
P.O. BOX 272400
FORT COLLINS, CO 80527-2400

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JUN 2 0 2007

OFFICE OF PETITIONS

In re Application of	:	
Salil V. Pradhan et al	:	
Application No. 10/383,652	:	ON PETITION
Filed: March 10, 2003	:	
Attorney Docket No. 200208133-1	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 26, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed July 5, 2006, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on October 6, 2006.

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

This matter is being referred to Technology Center AU 2876 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER
LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

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AUG 1 1 2005

OFFICE OF PETITIONS

In re Application of	:	
Jackson et al.	:	DECISION ON PETITION
Application No. 10/383,675	:	
Filed: 10 March, 2003	:	
Atty Docket No. 3495.0182-01	:	

This is a decision on the petition under 37 CFR 1.78(a)(6), filed on 1 June, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of prior-filed provisional application Nos. 60/113,675 and 60/198,229. This is also a decision on the petition to revive the above-identified application under 37 CFR 1.137(b).

The petition is **DISMISSED**.

The above-identified application became abandoned on 11 August, 2004, for failure to file a timely reply to the non-final Office action mailed on 10 February, 2004, which set a three (3) month shortened statutory period for reply. On 10 August, 2004, a three (3) month extension of time was filed. No reply to the Office action was received, however, and a Notice of Abandonment was mailed on 18 November, 2004.

Petitioners state that the petition to revive is filed solely for the purpose of meeting the requirement that a petition under 37 CFR 1.78(a)(6) be filed during the pendency of the nonprovisional application. As the petition under 37 CFR 1.78(a)(6) is not grantable for the reasons discussed infra, the petition to revive will be held in abeyance pending correction of the deficiencies in the petition 37 CFR 1.78(a)(6).

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the

pendency of the nonprovisional application. In addition, the petition must be accompanied by:

> **(1)** the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
> **(2)** the surcharge set forth in § 1.17(t); and
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

A reference to the prior-filed provisional applications has been included in an amendment to the first sentence of the specification following the title. However, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. Petitioner's attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980), where the court drew a distinction between a permissible 35 U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. The court specifically stated:

> Section 120 merely provides a mechanism whereby an application becomes entitled to benefit of the filing date of an earlier application disclosing the same subject matter. Common subject matter must be disclosed, in both applications, either specifically or by an express incorporation-by-reference of prior disclosed subject matter. Nothing in section 120 itself operates to carry forward any disclosure from an earlier application. In re deSeversky, supra at 674, 177 USPQ at 146-147. Section 120 contains no magical disclosure-augmenting powers able to pierce new matter barriers. It cannot, therefore, "limit" the absolute and express prohibition against new matter contained in section 251.

In order for the incorporation by reference statement to be effective as a proper safeguard against the omission of a portion of a prior application, the incorporation by reference statement must be included in the specification-as-filed, or in an amendment specifically referred to in an oath or declaration executing the application. *See* In re deSeversky, *supra*. *Note also* MPEP 201.06(c).

Accordingly, before the petition under 37 CFR 1.78(a)(6) can be granted, a substitute amendment[1] deleting the incorporation by reference statement and addressing the deficiencies noted above, along with a renewed petition under 37 CFR 1.78(a)(6), is required.

As authorized, the $1,370.00 fee required by 37 CFR 1.78(a)(6)(ii) will be charged to petitioners' Deposit Account No. 06-0916.

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

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

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

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

Any questions concerning this matter may be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

Frances Hicks

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

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[1] *Note* 37 CFR 1.121

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901 NEW YORK AVENUE NW
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OCT 03 2005

OFFICE OF PETITIONS

In re Application of	:
Jackson et al	:DECISION ON PETITIONS
Application No. 10/383,675	:UNDER 37 CFR 1.137(b)
Filed: 10 March 2003	:AND 37 CFR 1.78(6)
Attorney Docket No. 3495.0182-01	:

This is a decision on the renewed petition under 37 CFR 1.78(a)(6), filed 29 August, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of the prior-filed provisional applications set forth in the concurrently-filed amendment. This is also being treated as a renewed petition under 37 CFR 1.137(b) to revive the above-identified application.

The petitions are granted.

The above-identified application became abandoned on 11 August, 2004, for failure to file a timely reply to the non-final Office action mailed on 10 February, 2004, which set a three (3) month shortened statutory period for reply. On 10 August, 2004, a three (3) month extension of time was filed. No reply to the Office action was received and a Notice of Abandonment was mailed on 18 November, 2004. The petition filed on 1 June, 2005, was dismissed on 11 August, 2005.

Petitioners stated, in the petition filed under 37 CFR 1.137(b) on 1 June, 2005, that the petition to revive is filed solely for the purpose of meeting the requirement that a petition under 37 CFR 1.78(a)(6) be filed during the pendency of the nonprovisional application. Accordingly, this application will only be revived for purposes of meeting the 37 CFR 1.78(a)(6) pendency requirements and again abandoned.

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

> **(1)** the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
> **(2)** the surcharge set forth in § 1.17(t); and
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed provisional application(s) is submitted after expiration of the period specified in 37 CFR 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(6).

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(6) in that (1) a reference to the above-noted, prior-filed provisional application(s) has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(5)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 119(e) to the above-noted, prior-filed provisional application(s) satisfies the conditions of 37 CFR 1.78(a)(6), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application(s) under 37 CFR 1.78(a)(6) should not be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed application(s). In order for the instant application to be entitled to the benefit of the prior-filed application(s), all other requirements under 35 U.S.C. § 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

A corrected Filing Receipt, which includes the priority claim to the prior-filed provisional application(s), is enclosed with this decision.

Any inquiries concerning this decision may be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

This abandoned matter is being referred to Files Repository.

Frances Hicks

Frances Hicks
Lead Paralegal
Office of Petitions

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WASHINGTON DC 20007

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JAN 17 2006

OFFICE OF PETITIONS

In re Patent No. 6,915,093	: DECISION ON REQUEST FOR
Takashi Hatakeyama	: RECONSIDERATION OF
Issue Date: July 5, 2005	: PATENT TERM ADJUSTMENT
Application No. 10/383,676	: and
Filed: March 10, 2003	: NOTICE OF INTENT TO ISSUE
Atty Docket No. 016907-1492	: CERTIFICATE OF CORRECTION

This is a decision on the "APPLICATION FOR PTA UNDER 37 C.F.R. § 1.705(d)," filed August 16, 2005.

The request for reconsideration of the patent term adjustment indicated on 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 **seventy-five (75)** days.

On July 5, 2005, the above-identified application matured into U.S. Patent No. 6,915,093, with a patent term adjustment of 72 days printed on the front page. In response, patentee filed the instant request for reconsideration. Patentee does not dispute that the initial determination of patent term adjustment at the time of the mailing of the notice of allowance was zero (0) days. However, after the mailing of the notice of allowance, a period of adjustment of 75 days was entered in the application. Patentees dispute the Office reduction of the 75 days by 3 days for applicant delay in filing a response to the Notice to File Missing Parts of Application mailed May 9, 2003.

A review of the application file reveals that the applicant's response to the Notice to File Missing Parts of Application mailed May 9, 2003, is of record in the application with a date of receipt by the Office of July 7, 2003, reflecting timely filing[1] for purposes of compliance with 37 CFR 1.704(b).

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[1] Patentee's postcard receipt further provides *prima facie* evidence that the response was timely filed within the meaning of § 1.704(b). See MPEP 503. The period, or shortened statutory period, for reply that is set in the Office action or notice has no effect on the three-month period set forth in § 1.704(b). See 37 CFR 1.704(b).

Furthermore, the response was complete and proper. Thus, the Office should not have entered the date that the instant application was complete as August 12, 2003 or assessed patentee a delay of three (3) days. The response was timely filed within the three-month period under 37 CFR 1.704(b) and accordingly, patentees' delay should have been assessed as zero "0" days. Patentees did not fail to engage in reasonable efforts to conclude prosecution of the application by delaying in replying to the Notice to File Missing Parts of Application.

In view thereof, it is concluded that the patent should have issued with a revised Patent Term Adjustment of seventy-five (75) days.

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

The application file is being forwarded to the 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 **seventy-five (75)** days.

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

Kery Fries

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

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JUN 28 2005

OFFICE OF PETITIONS

In re Application of	:	
Jackson et al.	:	
Application No. 10/383,675	:	DECISION ON PETITION
Filed: 10 March, 2003	:	
Atty Docket No. 3495.0182-01	:	

This is a decision on the petition filed on 1 June, 2005, under 37 CFR 1.137(b),[1] 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

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

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

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

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

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

letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is not a final agency decision.

The application became abandoned on 11 May, 2004, for failure to timely reply to the non-final Office action mailed on 10 February, 2004, which set a three (3) month shortened statutory period for reply. No extensions of the time for reply under 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 18 November, 2004.

Petitioners state they "are filing this petition for the limited purpose of allowing the Office to consider a petition under 37 C.F.R. § 1.78(a)(6) For an Unintentionally Delayed Priority Claim, and a claim for priority, both filed herewith. Because Applicants do not with to reinitiate substantive prosecution of this application, Applicants are not filing a Reply to the Office action of February 10, 2004."

The petition lacks the reply required by 37 CFR 1.37(b)(1). In this regard, petitioners state that no reply to the outstanding Office action has been filed. Furthermore, a review of the official file reveals that no petition under 37 CFR 1.78(a)(6) has been filed therewith. Additionally, it is noted that the amendment filed with the present petition improperly incorporates by reference the prior provisional application to which benefit is being claimed.[2]

Petitioners should file a copy of the petition under 37 CFR 1.78(a)(6), and the requisite petition fee, as well as an amendment with a proper claim of benefit under 35 U.S.C. § 119(e) with a renewed petition under 37 CFR 1.137(b).

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[2] Petitioners attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980), where the court drew a distinction between a permissible 35 U.S.C. ' 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. The court specifically stated:

> Section 120 merely provides a mechanism whereby an application becomes entitled to benefit of the filing date of an earlier application disclosing the same subject matter. Common subject matter must be disclosed, in both applications, either specifically or by an express incorporation-by-reference of prior disclosed subject matter. Nothing in section 120 itself operates to carry forward any disclosure from an earlier application. In re deSeversky, supra at 674, 177 USPQ at 146-147. Section 120 contains no magical disclosure-augmenting powers able to pierce new matter barriers. It cannot, therefore, "limit" the absolute and express prohibition against new matter contained in section 251.

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

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

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

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. _____

Date : April 20, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :David D. Goodman
Application No. :10/383,684
Filed :March 10, 2003

The above-identified application has been assigned Patent No. 6,888,931 and an issue date of May 3, 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 3, 2005:

"All reference to Patent No. 6,888,931 to David D. Goodman of Virginia for HIGH-SPEED DATA COMMUNICATION OVER A RESIDENTIAL TELEPHONE WIRING NETWORK appearing in the Official Gazette of May 3, 2005 should be deleted since no patent was granted."

Karen Creasy

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

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

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STAAS & HALSEY LLP
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1201 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

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APR 2 0 2005

OFFICE OF PETITIONS

In re Application of	:	
David D. Goodman	:	
Application No. 10/383,684	:	ON PETITION
Filed: March 10, 2003	:	
Attorney Docket No. 112152.122US3	:	

This is a decision on the petition, filed April 19, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

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

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

The examiner of Technology Center AU 2643 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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STAAS & HALSEY, LLP
SUITE 700
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WASHINGTON, DC 20005

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OCT 0 3 2005

OFFICE OF PETITIONS

In re Application of	:	
David D. Goodman	:	
Application No. 10/383,684	:	NOTICE
Filed: March 10, 2003	:	
Attorney Docket No. 112152.122US3		

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

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

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

This file is being forwarded to the Files Repository.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

DATE _____

APPLICATION NUMBER 10/383,702

DOC CODE PET.DEC.TC

DOC DATE 09/27/07

DELIVER THE ATTACHED FIFLE/DOCUMENT TO THE TC SCANNING CENTER

CONTRACTOR: THE ATTACHED FILE/DOCUMENT MUST BE INDEXED AND SCANNED INTO IFW WITHIN **8** WORK HOURS; UPLOADING OF THE SCANNED IMAGES SHOULD OCCUR NO LATER THAN **16** WORK HOURS FOLLOWING RECEIPT OF THIS REQUEST

AFTER SCANNING, ORIGINAL DOCUMENTS SHOULD BE BOXED IN ACCORDANCE WITH INSTRUCTIONS

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VMWARE / JEFFREY PEARCE
DARRYL SMITH
3401 Hillview Ave.
PALO ALTO CA 94304

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SEP 27 2007

OFFICE OF PETITIONS

In re Application of :
Nelson :
Application No. 10/383,702 : ON PETITION
Filed: March 7, 2003 :
Attorney Docket No. A26 :
For: HIGH-PERFORMANCE VIRTUAL MACHINE NETWORKING

This is a decision on the petition, filed June 12, 2007 (certificate of mailing date June 8, 2007), under 37 CFR 1.137(b) to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely submit a reply within three (3) months of the mailing of the March 8, 2006 non-final Office action. No response being received and no extensions of time being obtained under the provisions of 37 CFR 1.136(a), this application became abandoned on June 9, 2006. A Notice of Abandonment was mailed on September 19, 2006.

Applicant has submitted an amendment in reply to the March 8, 2006 non-final Office action, a proper statement of the unintentional nature of the delay in responding to the March 8, 2006 non-final Office action, and the $1,500.00 petition fee.

All of the requirements under 37 CFR 1.137(b) being met, the petition is granted.

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.

After the mailing of this decision, the application will be returned to Technology Center AU 2194 for consideration of the amendment filed on June 12, 2007 (certificate of mailing date June 8, 2007).

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

CC: DARRYL A. SMITH
3145 PORTER DRIVE
PALO ALTO, CA 94304

UNITED STATES PATENT AND TRADEMARK OFFICE

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VMWARE, INC.
DARRYL SMITH
3401 Hillview Ave.
PALO ALTO, CA 94304

Mail Date: 04/20/2010

Applicant	: Michael Nelson	: DECISION ON REQUEST FOR
Patent Number	: 7620955	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/383,702	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/07/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

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

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FISH & RICHARDSON, PC
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

Mail Date: 04/20/2010

Applicant	: Hua Yu	: DECISION ON REQUEST FOR
Patent Number	: 7638122	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/383,707	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/07/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1731** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL MN 55133-3427

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In re Patent No. 7,328,700	:	
Issue Date: February 12, 008	:	
Application No. 10/383,713	:	ON PETITION
Filed: March 7, 2003	:	
Attorney Docket No. 57696US002	:	

This is a decision on the petition filed June 2, 2008, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

The required $130 processing fee for a petition under 37 CFR 3.81(b) has been charged to petitioner's deposit account.

Telephone inquiries concerning this decision may be directed to Carl Friedman at (571) 272-6842. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

Carl Friedman
Petitions Examiner
Office of Petitions

---

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
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Paper No. 4

Bernard S. Hoffman
460 Old Town Road, Suite 7F
Port Jefferson Station, NY 11776

JUL 25 2003

In re Application of	:	
Anthony Mallozzi	:	
Application No. 10/383,714	:	DECISION ON PETITION
Filed: March 8, 2003	:	TO MAKE SPECIAL
For: BOW SIGHT WITH REPLACEABLE SIGHT	:	
PIN GUARD	:	

This is a decision on the petition under 37 C.F.R. § 1.102, filed May 12, 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 petition fee of $130.00, (b) a statement that all claims are directed a single invention and 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.

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

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LEONG C LEI
PMB # 1008
1867 YGNACIO VALLEY ROAD
WALNUT CREEK, CA 94598

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OFFICE OF PETITIONS

In re Application of	:	
Tien	:	
Application No. 10/383,723	:	DECISION ON PETITION
Filed: March 10, 2003	:	
Docket No.: FP9368	:	

This is a decision on the petition under 37 CFR 1.181, filed March 29, 2005, to withdraw the holding of abandonment.

The petition is **GRANTED**.

The application was held abandoned February 14, 2004 for failure to timely submit a properly reply to the non-final Office action mailed November 13, 2003. The Notice set a three month shortened statutory period of time for reply. Notice of Abandonment was mailed May 18, 2004.

Petitioner attributes the holding of abandonment to the Office's failure to mail the Office action to the correct correspondence address.

As argued by petitioner, the non-final Office action was mailed to the incorrect correspondence address.

Accordingly, Notice of Abandonment is **WITHDRAWN** and the holding of abandonment is hereby **VACATED**.

This application is being forwarded to Technology Center 2800 for re-mailing of the non-final Office action.

Telephone inquiries concerning this matter may be directed to the undersigned at 571-272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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30 ROCKEFELLER PLAZA
NEW YORK NY 10112

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OFFICE OF PETITIONS

In re Patent No. 6,765,077 :
Issued: July 20, 2004 :
Application No. 10/383,730 : ON PETITION
Filed: March 10, 2003 :
Attorney Docket Number: 03500.017100 :

This is a decision on the petition, filed April 5, 2005, under 37 CFR 1.183, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee's name the front of the Patent.

The petition is **GRANTED**.

Petitioner states that the correct assignee's name is Canon Kasei Kabushiki Kaisha and that the PTOL-85(b) inadvertently listed the assignee name, incorrectly. Accordingly, petitioner requests that a certificate of correction be issued to reflect the correct assignee on the front page of the Letters Patent.

37 CFR 3.81(b), effective June 25, 2004, reads:

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

The request was accompanied by a certificate of correction (and fee) as required by 3.81(b). Further, Office assignment records reflect that Canon Kasei Kabushiki Kaisha is the assignee of record. Accordingly, as the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to issue.

---

[1] *See* Official Gazette of June 22, 2004

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

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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Law Office - Dinesh Agarwal, P.C.
5350 Shawnee Road, Suite 330
Alexandria, VA 22312

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MAY 2 6 2005

OFFICE OF PETITIONS

In re Application of :
Ramachandran Radhakrishnan, et al. :
Application No. 10/383,779 : ON PETITION
Filed: March 10, 2003 :
Attorney Docket No. US 1326/02 :

This is a decision on the petition, filed May 26, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 16, 2005, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 3616 for further processing of the request for continued examination under 37 CFR 1.114.

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

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

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5350 SHAWNEE ROAD, SUITE 330
ALEXANDRIA VA 22312

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OFFICE OF PETITIONS

In re Application of :
Ramachandran Radhakrishnan et al :
Application No. 10/383,779 :
Filed: March 10, 2003 :
Attorney Docket No. US 1326/02 :

ON PETITION

This is a decision on the petition, filed October 14, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 16, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 3616 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

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P.O. Box 1450
Alexandria, VA 22313-1450
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DATE: April 30, 2007
TO: Certificates of Correction Branch
FROM: David Dunn
SPE, Art Unit 3636
SUBJECT: REQUEST FOR CERTIFICATE OF CORRECTION

Please issue a Certificate of Correction in U. S. Letters Patent No. 7,007,972 as specified on the attached Certificate.

David Dunn, SPE
Art Unit 3636

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE

Patent No. 7,007,972
Patented: 03/07/2006

On petition requesting issuance of a certificate for correction of inventorship pursuant to 35 U.S.C. 256, it has been found that the above identified patent, through error and without deceptive intent, improperly sets forth the inventorship. Accordingly, it is hereby certified that the correct inventorship of this patent is:

Ramachandran Radhakrishnan, Falls Church, VA (US);
Sanjay Kotha, Falls Church, VA (US);
Tirumalai S. Sudarshan, Vienna, VA (US);
Norman M. Werely, Potomac, MD (US).

David Dunn
Supervisory Patent Examiner
Art Unit 3636

UNITED STATES PATENT AND TRADEMARK OFFICE

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MORISHITA LAW FIRM, LLC
3800 HOWARD HUGHES PARKWAY
SUITE 850
LAS VEGAS NV 89109

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APR 10 2006

OFFICE OF PETITIONS

In re Application of :
Brundage :
Application No. 10/383,817 :
Filed: March 6, 2003 :
Attorney Docket No. BRUNDA03-02CIP :

ON PETITION

This is a decision on the petition under 37 C.F.R. 1.181, filed November 8, 2004 (certificate of mailing date November 3, 2004), to 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 on December 8, 2003, which set forth an extendable 3 month period for reply. No extensions of time being obtained pursuant to 37 C.F.R. 1.136(a), the Office contended this application became abandoned on March 9, 2004 for failure to reply to the December 8, 2003 non-final Office action. A Notice of Abandonment was mailed on August 23, 2004.

Petitioner asserts that he mailed an amendment and a check for $9.00 to the Office on February 10, 2004. The original response is not of record in the file and cannot be located. However, the copy of the itemized Amendment Transmittal Letter submitted with the instant petition contains a proper certificate of mailing bearing a February 10, 2004 date of deposit.

Under 37 C.F.R. § 1.8(a)(1) correspondence is considered timely if: (1) the correspondence is mailed or transmitted prior to expiration of the set period for response by being properly addressed to the Patent and Trademark Office as set out in 37 C.F.R. § 1.1(a) and deposited with the U.S. Postal Service with sufficient postage as first class mail or transmitted to the Patent and Trademark Office in accordance with 37 C.F.R. § 1.6(d); and (2) the correspondence includes a

certificate for each piece of correspondence stating the date of deposit or transmission. The person signing the certificate should have a reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated.

The Amendment Transmittal Letter bears a proper certificate of mailing, dated February 10, 2004 in compliance with the requirements of 37 C.F.R. § 1.8(a)(1) as set forth above. In addition, the person signing the certificate, Kellie D. Carr, had reasonable basis to expect that the correspondence would be mailed on February 10, 2004, per her statement of facts that accompanied the petition.

The petition is **GRANTED** and the holding of abandonment is withdrawn.

Regarding finances, no petition fee has been or will be charged in connection with this matter. The $9.00 check filed on February 10, 2004 was processed on accounting date March 5, 2004.

The application file will be returned to Technology Center A.U. 2856 for consideration of the amendment filed on February 10, 2004 and resubmitted with the instant petition.

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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NEW YORK NY 10017

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OFFICE OF PETITIONS

In re Application of	:	
Douglass Schoon, James Duff, Thong	:	
Vu, Andry Hong, Daniel Moore	:	DECISION REFUSING
Application No. 10/383,826	:	STATUS UNDER § 1.47(a)
Filing Date: March 7, 2003	:	
Attorney Docket No. 222-006	:	

This is in response to the "DECLARATION OF FACTS IN SUPPORT OF FILING ON BEHALF OF OMITTED INVENTOR UNDER 37 C.F.R. §1.47," filed November 3, 2003.

The petition under 37 CFR 1.47(a) is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventors. **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 7, 2003, without a fully executed oath or declaration. On November 3, 2003, applicants filed the instant petition.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor(s) cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 37 CFR 1.63; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor(s). The instant petition does not satisfy requirements (1) and (2).

As to requirement (1), there has been no showing that non-signing inventor Andry Hong was presented with the application papers (specification, claims, drawings, oath or declaration). Rather, the petition only establishes that Hong was forwarded a copy of the declaration, power of attorney, and assignment forms. Regarding this, the Manual of Patent Examining Procedure states:

> A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers.
>
> It is reasonable to require that the inventor be presented with the application papers before a petition under 37 CFR 1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. In re Gray, 115 U.S.P.Q. 80 Comm'r Pat. 1956).

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.[1]

As to requirement (2), petitioner has failed to submit an oath or declaration in compliance with 37 CFR 1.63. The declaration does not contain the citizenship of Hong.

On renewed petition, applicants must submit a declaration in compliance with 37 CFR 1.63.

---

[1] 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) 872-9306
Attn: Office of Petitions

Telephone inquiries concerning this decision may be directed to the undersigned at (703) 305-0272.

Cliff Congo
Petitions Attorney
Office of Petitions

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Paper No. 5

PAUL D. GREELEY
OHLANDT GREELEY RUGGIERO & PERLE
ONE LANDMARK SQUARE, 10TH FLOOR
STAMFORD, CT 06901-2682

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FEB 27 2004

OFFICE OF PETITIONS

In re Application of :
Alastair John Nelson et al :
Application No. 10/383,832 :
Filed: March 7, 2003 :
Attorney Docket No. 384.7483USU :

ON PETITION

This is in response to the petition under 37 CFR 1.47(a), filed October 8, 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).

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) and (2) set forth above.

As to item (1) the affidavit of: Joanne A. Romaniello, states that Paralegal Tara Yendell repeatedly requested Mr. Timothy Callahan to sign the declaration but Mr. Callahan wishes to seek advice from his personal lawyer before signing the documents. However, it is not merely enough that Mr. Callahan's signature on the declaration was requested. Petitioner must demonstrate Mr. Callahan was presented with a complete copy of the application papers (specification, claims, and drawings). Otherwise, Mr. Callahan could not attest that he has "reviewed and understands the application papers" and therefore could not sign the declaration which he was requested to sign. Accordingly, Rule 47 applicant failed to show or provide proof that inventor Callahan has refused to sign the declaration. Did inventor Callahan receive the application papers? See Manual of Patent Examining Procedure, Section 409.03(d). Petitioner should show that a copy of the application papers was presented to inventor Callahan, but that Mr. Callahan did not respond to the request that he sign the oath/declaration in order to show that the inventor has refused to join in the application.

As to item (2), the Combined Oath and Declaration of Power of Attorney is unacceptable since the declaration must be signed by all the signing inventors on behalf of themselves and on behalf of non-signing inventor Callahan. The declaration would be acceptable if all the signing inventors signed in their respective signature blocks and the signature block of non-signing inventor Timothy Callahan is left blank. The declaration cannot be signed by petitioner herein since he is neither an applicant nor a legal representative of the non-signing inventor. Accordingly, an oath or declaration in compliance with 37 CFR 1.63 and 1.64 signed by all the signing inventors on behalf of themselves and on behalf of non-signing inventor Callahan, or a declaration signed by all the inventors but the signature block of Timothy Callahan left blank, must be submitted.

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.**

Telephone inquiries related to this decision should be directed to Irvin Dingle at (703) 306-5684.

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
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Paper No. 8

PAUL D. GREELEY
OHLANDT GREELEY RUGGIERO & PERLE, L.L.P.
ONE LANDMARK SQUARE, 10TH FLOOR
STAMFORD, CT 06901-2682

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JUN 2 9 2004

OFFICE OF PETITIONS

In re Application of	:	
Alastair John Nelson et al.	:	
Application No. 10/383,832	:	DECISION GRANTING
Filed: March 7, 2003	:	STATUS UNDER 37 CFR 1.47(a)
Attorney Docket No. 384.7483USU	:	

This is in response to the petition filed June 1, 2004, requesting reconsideration of a decision mailed February 27, 2004, which refused to accord 37 CFR 1.47(a) status to the above-identified application.

The petition is granted.

Petitioner has shown that the non-signing inventor (Timothy Callahan) 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 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 related to this decision should be directed to Irvin Dingle at (703) 306-5684.

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

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JUN 2 9 2004

OFFICE OF PETITIONS

TIMOTHY CALLAHAN
16 COTTONWOOD TRAIL
SPARTA, NJ 07871

In re Application of
Alastair John Nelson; Timothy Callahan; Paul Smithies; David Arthur Spingarn; Harold J. Carlson; Richard H. Lander
Application No. 10/383,832
Filed: March 7, 2003
For: MONITORING SYSTEM WITH AN INTEGRATED TOOLKIT

Dear Mr. Callahan:

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

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

Telephone inquiries regarding this communication should be directed to the Irvin Dingle at (703) 306-5684. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

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

cc:

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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OFFICE OF PETITIONS

DAVID L. FEHRMAN
MORRISON & FOERSTER LLP
35TH FLOOR
555 W. 5TH STREET
LOS ANGELES CA 90013

In re Application of	:	
Yasushi Sakurai et al	:	
Application No. 10/383,836	:	ON PETITION
Filed: March 7, 2003	:	
Attorney Docket No. 393032036400	:	

This is a decision on the petition, filed April 28, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on February 6, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2837 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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Paper No. _____

Date : May 1, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner for Patent Examination Policy

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MAY 01 2006
OFFICE OF PETITIONS

SUBJECT : Withdrawal from Issue of

Applicant(s) :Yasushi et al
Application No. :10/383,836
Filed :March 7, 2003

The above-identified application has been assigned Patent No. 7,041,894 and an issue date of May 9, 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 May 9, 2006:

"All reference to Patent No. 7,041,894 to Yasushi Sakurai et al of Japan for MUSICAL TONE GENERATING APPARATUS AND MUSICAL TONE GENERATING COMPUTER PROGRAM appearing in the Official Gazette of May 9, 2006 should be deleted since no patent was granted."

Karen Creasy

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

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

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Commissioner for Patents
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QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

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MAY 23 2008

OFFICE OF PETITIONS

In re Application of :
Mark S. Wallace et al :
Application No. 10/383,855 :
Filed: March 7, 2003 :
Attorney Docket No. PA728C1 :

ON PETITION

This is a decision on the petition filed January 2, 2008 under 37 CFR 1.137(b), 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 September 10, 2007, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on December 11, 2007.

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

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

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

Irvin Dingle
Petitions Examiner
Office of Petitions

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

AUG 16 2006

TECHNOLOGY CENTER 3600

PILLSBURY WINTHROP SHAW PITTMAN, LLP
P.O. BOX 10500
MCLEAN, VA 22102

In re Application of Charles Mol et al Application No. 10/383,861 Filed: March 10, 2003 Title: METHOD OF PROVIDING A NUCLEAR FUEL AND A FUEL ELEMENT PROVIDED BY SUCH A METHOD	DECISION ON THE PETITION FOR WITHDRAWAL OF THE RESTRICTION REQUIREMENT AND THE REQUIREMENT FOR INFORMATION UNDER 37 C.F.R. 1.105

This is a decision on applicants' petition for the withdrawal of the restriction requirement under 37 CFR 1.144 and the petition under 37 C.F.R. 1.181 for the withdrawal of the request for information requirement under 37 CFR 1.105 filed in the United States Patent and Trademark Office, on July 19, 2006.

The petitions are **GRANTED**.

After review of the Pre-Appeal request filed July 19, 2006 the claims stand allowable in the application. The restriction requirement is withdrawn as the claims are now rejoined. The Requirement for Information under 37 CFR 1.1.05 is also withdrawn.

The application has been forwarded to the examiner for preparation of the application for allowance and issue.

Any questions or comments with respect to the decision should be directed to Supervisor Jack W. Keith at (571) 272 6878.

Donald T. Hajec, Director
Patent Technology Center 3600
(571) 272-5150

DTH/jwk: 8/9/06

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ALLEN DYER DOPPELT MILBRATH & GILCHRIST PA
1401 CITRUS CENTER 255 SOUTH ORANGE AVENUE
PO BOX 3791
ORLANDO FL 32802-3791

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OFFICE OF PETITIONS

In Application of Michael L. Suter, Eitan Zehavi, David Chiel Application No. 10/383,873 Filed: March 7, 2003 Attorney Docket No. 12615/56057 Title: FRUIT HARVESTER INCLUDING PIVOTABLE FRUIT DEFLECTOR AND ASSOCIATED METHODS	:	DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed September 26, 2003 (Certificate of Mailing dated September 23, 2003).

The petition under 37 CFR 1.47(a) is **DISMISSED**.

Rule 47 applicant is given **TWO MONTHS** from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application.** Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on March 7, 2003. On May 29, 2003, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring an executed oath or declaration, a surcharge for its late filing, and the statutory basic filing fee. This Notice set a two-month period for reply.

In reply, applicant filed the instant petition, and paid the surcharge for late filing of the declaration together with the statutory basic filing fee. To make timely this reply, applicant obtained a two month extension of time. Accompanying the petition was a declaration executed by joint inventor Michael L. Suter, with the signature block for joint inventors Eitan Zehavi and David Chiel left blank.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached after diligent effort or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims, drawings, oath or declaration); (2) an acceptable oath or declaration in compliance with 37 CFR 1.63; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Rule 47 applicant has not met requirement (1).

As to requirement (1), the petition has been carefully considered. However, applicant has not submitted sufficient proof that Chiel has refused to sign the declaration after having been presented with the application papers. Regarding the evidence required of a Rule 47 applicant where a refusal is alleged, the Manual of Patent Examining Procedure states:

> 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.[1]

Here, petitioner has not submitted any evidence or details regarding Chiel's refusal to sign the declaration. For that matter, the petition does not even make it clear whether Cheil refusal was oral or written. Rather, petitioner simply states that Zehavi and Chiel "have refused to sign the Declaration and join in the application after having been presented presented with the application papers." While petitioner did include an express written refusal from Zehavi in a letter dated June 2, 2003, petitioner has not included any information or evidence regarding Chiel's refusal.[2]

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

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[1] MPEP 409.03(d).

[2] Petitioner states that the letter from Zehavi was on behalf of Zehavi and Chiel. The letter does not make it clear that it is on Chiel's behalf. However, even if it did, an express written refusal must come from either Chiel or his attorney or agent.

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

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0272.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 11

ALLEN DYER DOPPELT MILBRATH & GILCHRIST PA
1401 CITRUS CENTER 255 SOUTH ORANGE AVENUE
PO BOX 3791
ORLANDO FL 32802-3791

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MAR 1 8 2004

OFFICE OF PETITIONS

In Application of Michael L. Suter, Eitan Zehavi, David Chiel Application No. 10/383,873 Filed: March 7, 2003 Attorney Docket No. 12615/56057 Title: FRUIT HARVESTER INCLUDING PIVOTABLE FRUIT DEFLECTOR AND ASSOCIATED METHODS	DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is in response to the renewed petition under 37 CFR 1.47(a), filed March 4, 2004.

The renewed petition under 37 CFR 1.47(a) is **GRANTED**.

The above-identified application was filed on March 7, 2003. On May 29, 2003, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring an executed oath or declaration, a surcharge for its late filing, and the statutory basic filing fee. This Notice set a two-month period for reply.

In reply, applicant filed a petition under 37 CFR 1.47(a) on September 26, 2003, and paid the surcharge for late filing of the declaration together with the statutory basic filing fee. To make timely this reply, applicant obtained a two month extension of time. Accompanying the petition was a declaration executed by joint inventor Michael L. Suter, with the signature block for joint inventors Eitan Zehavi and David Chiel left blank. However, the petition was dismissed in a decision mailed on November 20, 2003. The petition was dismissed because Rule 47 applicant failed to provide sufficient proof of Chiel's refusal to sign the declaration.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor(s) cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 37 CFR 1.63; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor(s).

On renewed petition filed March 15, 2004 (made timely by obtaining a two month extension of time), Rule 47 applicant has included a written refusal from Chiel, dated December 23, 2003.

Rule 47 applicant has submitted a declaration in compliance with 37 CFR 1.63 and satisfied the requirements of 37 CFR 1.47(a). Accordingly, the above-identified application is hereby accorded Rule 1.47(a) status.

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

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

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0272.

Cliff Congo
Petitions Attorney
Office of Petitions

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BANNER & WITCOFF
1001 G STREET, NW
SUITE 1100
WASHINGTON, DC 20001

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OFFICE OF PETITIONS

In re Application of	:	
Wilberth Escalante	:	
Application No. 10/383,889	:	ON PETITION
Filed: March 6, 2003	:	
Attorney Docket No. NC34537	:	

This is a decision on the petition under 37 CFR 1.137(b), filed on February 10, 2006, to revive the above-identified application.

This application became abandoned for failure to timely respond to the final Office action mailed July 25, 2005.

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 with the $500 fee; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

The two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the fee required by 37 CFR 41.20(b)(2), runs from the date of this decision.

The application file is being forwarded to Technology Center Art Unit 2686.

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

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

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OFFICE OF PETITIONS

In re Application of :
Rami Caspi et al :
Application No. 10/383,895 :
Filed: March 7, 2003 :
Attorney Docket No. 2002P20470US

ON PETITION

This is a decision on the petition, filed September 17, 2008 which is being treated as a petition under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 3, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2617 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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DIW May-06

MOTOROLA, INC.
1303 EAST ALGONQUIN ROAD
IL01/3RD
SCHAUMBURG IL 60196

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OFFICE OF PETITIONS

In re Application of	:	
Li et al.	:	
Application No. 10/383,897	:	DECISION ON PETITION
Filed: 7 March, 2003	:	
Atty Docket No. CML00784N	:	

This is a decision on the petition filed on 8 February, 2006, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 26 January, 2006, for failure to timely file the issue and publication fees in response to the Notice of Allowance and Fee(s) Due mailed on 25 October, 2005, which set a three (3) month statutory period for reply. The filing of the present petition precedes the mailing of Notice of Abandonment.

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

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional 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)).

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

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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PATREA L. PABST
PABST PATENT GROUP LLP
400 COLONY SQUARE
SUITE 1200
ATLANTA GA 30361

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In re Application of	:	
SHOJI, MAMORU et. al.	:	
Application No. 10/383,898	:	DECISION ON PETITION
Filed: March 7, 2003	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. EU 02038	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed March 16, 2005 which is being treated as a petition under 37 CFR 1.78(a)(6), to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional applications 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 applications as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application claiming the benefit of the prior-filed provisional applications must have been filed within twelve months of the filing date of the prior-filed provisional applications.

37 CFR § 1.78(a)(6) requires 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. Since the statement appearing in the petition varies from the required language, the statement is being construed as the statement required by 37 CFR §1.78(a)(6). If this is not a correct reading of the statement appearing in the petition, petitioner should promptly notify the Office.

The surcharge set forth in §1.17(t) of $1,370 has been charged to petitioner's deposit account as authorized on the petition.

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 applications 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 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. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

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

Any inquiries concerning this decision may be directed to Amelia Au at (571) 272-7414. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

The application is being forwarded to Technology Center AU 1641 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 applications.

Frances Hicks
Lead Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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BELASCO, JACOBS & TOWNSLEY LLP
HOWARD HUGHES CENTER
6100 CENTER DRIVE
SUITE 630
LOS ANGELES CA 90045

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SEP 12 2007

OFFICE OF PETITIONS

In re Application of
Vincent E. Aniwanou
Application No. 10/383,906
Filed: March 7, 2003
Attorney Docket No.: 03-015-T

ON PETITION

This is a decision on the petition filed July 19, 2007, under 37 CFR 1.181, to withdraw the holding of abandonment for the above-identified application.

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

This application was held abandoned on May 31, 2007 and a Notice of Abandonment was mailed July 16, 2007, for the appellant's failure to timely take action after the Board of Patent Appeals and Interferences decision rendered March 30, 2007.

Petitioner asserts that a response was filed by facsimile transmission and, in support, petitioner has submitted, *inter alia*, a copy of the response in the form of a "Request For Rehearing Under 37 CFR § 41.52(a)(1)" filed May 18, 2007 which bears a certificate of facsimile transmission dated May 18, 2007 pursuant to 37 CFR 1.8.

A search of the application file and the USPTO records does not reveal that the "Request For Rehearing Under 37 CFR § 41.52(a)(1)" filed May 18, 2007 has been matched with the file but the evidence submitted corroborates a timely response. Accordingly, the holding of abandonment is withdrawn and the Notice of Abandonment is vacated. No petition fee Is due and none has been charged.

This matter will be referred to Technology Center 3782 for appropriate action on the "Request For Rehearing Under 37 CFR § 41.52(a)(1)" filed May 18, 2007.

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

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)
7041455	2006-05-09	10383922	2003-03-07	2066721.00014

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	/C. RACHAL WINGER/	Date (YYYY-MM-DD)	2010-05-20
Name	C. RACHAL WINGER, PH.D.	Registration Number	55815

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

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In re Patent No. 7041455
Issue Date: May 9,2006
Application No. 10383922
Filed: March 7,2003
Attorney Docket No. 2066721.00014

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

This is a decision on the electronic petition, filed May 20,2010 ,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 May 20,2010 .
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.

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 5

Dan Swayze
Texas Instruments Incorporated
M/S 3999
P.O. Box 655474
Dallas TX 75265

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JUL 2 5 2003

OFFICE OF PETITIONS

In re Application of
Hochschild
Application No. 10/383,962
Filed: March 7, 2003
Attorney Docket No. TI-35203
For: H-BRIDGE COMMON-MODE NOISE REDUCTION CIRCUIT

DECISION GRANTING PETITION

This is a decision on the petition entitled, "PETITION UNDER 37 CFR 1.17(h)", filed June 2, 2003 (certificate of mailing date May 30, 2003), requesting, in effect, withdrawal of the Notice of Omitted Item(s) in a Nonprovisional Application (Notice), mailed May 2, 2003, insofar as it alleges that Figure 3 described in the specification was omitted. The petition will be treated under 37 CFR 1.53(e).

The application was filed on March 7, 2003. On May 2, 2003, the Office of Initial Patent Examination mailed a Notice informing petitioner that Figure 3 described in the specification appeared to have been omitted.

In response to the Notice, petitioner timely filed the present petition. Petitioner requests that Figure 3 be accorded a filing date of March 7, 2003 on the basis that 3 sheets of drawing figures, including Figure 3, were received in the Patent and Trademark Office (PTO) on March 7, 2003. In support, the petition is accompanied by a copy of applicant's itemized postcard receipt showing an Office of Initial Patent Examination generated barcode citing March 7, 2003 as the date of receipt. The postcard lists, *inter alia*, that the filing included 3 informal sheets of drawings.

The return postcard constitutes *prima facie* evidence that 3 sheets of informal drawing figures were filed on March 7, 2003. MPEP 503.

Accordingly, the petition is **GRANTED**.

A review of the originally filed sheets of drawings reveals that two sheets are present. However, these two sheets of formal drawings correspond to a different application. The March 7, 2003 Notice should have informed petitioner that Figures 1-3 were missing.

In light of the Office's mishandling of petitioner's three sheets of drawings, the three sheets of drawings submitted with the instant petition will be entered and made of record in the application and used for processing purposes. The two sheets of drawings corresponding to the different application presently in the above-identified application file will be removed and placed in the proper application file.

Pursuant to petitioners' authorization, the $130.00 petition fee will be credited to deposit account no. 20-0668.

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

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of March 7, 2003, using the 3 sheets of informal drawing figures submitted with the instant petition. Office records will be corrected to show that 3 sheets of drawings were present on filing.

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

cc: ROBERT C. KLINGER
JACKSON WALKER, LLP
2435 NORTH CENTRAL EXPRESSWAY
SUITE 600
RICHARDSON TX 75080

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Paper No. 7

MOTOROLA INC
600 NORTH US HIGHWAY 45
ROOM AS437
LIBERTYVILLE, IL 60048-5343

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MAR 1 5 2005

OFFICE OF PETITIONS

In re Application of :
Benjamin M. Finney et al :
Application No. 10/383,969 : ON PETITION
Filed: March 7, 2003 :
Attorney Docket No. CS22759RL :

This is a decision on the petition under 37 CFR 1.137(b), filed February 16, 2005, to revive the above-identified application. The petition is more properly a petition under 37 CFR 1.181 requesting withdrawal of the holding of abandonment in the above-identified application and has been so treated.

The petition to withdraw the holding of abandonment is **Granted**.

The above-identified application was held abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed May 7, 2003, which set a period for reply of two (2) months from the mail date of the Notice. Therefore, a reply was due on or before July 7, 2003.

The instant petition asserts timely response to the May 7, 2003 Notice. In support, petitioner has submitted a copy of the return postcard which acknowledges receipt by the U.S. Patent and Trademark Office (USPTO) on June 30, 2003 of, *inter alia*,

- copy of Notice to Filing Missing Parts of Application;
- 1 page Response to Notice to Filing Missing Parts of Application;
- 4 page Declaration Combined with Power of Attorney;
- 1 page Transmittal Letter;
- 1 page Fee transmittal in duplicate; and
- 5 Page Assignment and Recording Form.

Copies of the declarations purportedly filed on June 30, 2003 are also enclosed with the petition. In addition, petitioner's deposit account was charged on June 30, 2003, the $130.00 surcharge for late filing of an acceptable oath or declaration and $40.00 for the assignment fee.

The reply acknowledged as having been received in the USPTO on June 30, 2003 is not of record

in the application file and cannot be located. However, MPEP 503 states that "A post card receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO." Accordingly, it is concluded that the reply was timely received in the USPTO but was apparently lost after receipt thereof.

A petition to withdraw the holding of abandonment under the provisions of 37 CFR 1.181 does not require a fee and none has been charged.

The filing of a terminal disclaimer is unnecessary as a condition for revival pursuant to the provisions of 37 CFR 1.137(b) under the current rules. Therefore, the terminal disclaimer filed with the petition will not be processed.

The Office sincerely apologizes for the inconvenience caused petitioner in this matter.

This application is being returned to the Office of Initial Patent Examination for preexamination processing.

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

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
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ALEXANDRIA, VA 22313-1450
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Paper No. None

KRAMER LEVIN NAFTALIS & FRANKEL LLP
INTELLECTUAL PROPERTY DEPARTMENT
1177 AVENUE OF THE AMERICAS
NEW YORK NY 10036

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DEC 11 2006
OFFICE OF PETITIONS

In re Application of Saeed M. Al-Zahrani et al. Application No. 10/383,975 Filed: March 7, 2003 Attorney Docket No. 180577-00282 Title: CATALYSTS FOR PRODUCTION OF OLEFINS BY OXIDATIVE DEHYDROGENATION, AND METHODS OF MAKING AND USING THE SAME	DECISION ON TWO PETITIONS UNDER 37 C.F.R. §§1.137(B) AND §1.181(A)

This is a decision on the two petitions under 37 C.F.R. §§1.137(b)[1] and 1.181(a), filed on August 11, 2006.

It is noted in passing that Petitioner has placed the wrong title on these petitions.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed December 1, 2005, which set a shortened statutory period for reply of three months. No response was received, and no

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

extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on March 2, 2006. A notice of abandonment was mailed on July 24, 2006.

With the present petition, Petitioner has asserted that a response was timely filed on May 1, 2006 (along with a two-month extension of time). However, the response contained the wrong serial number (09/604,181) and the wrong filing date (June 27, 2000). The present application is a continuation of 09/604,181.

The electronic file associated with Application No. 09/604,181 has been reviewed, and it is clear that a response was indeed received on this date.

The petition under 37 C.F.R. §1.181:

37 C.F.R. §1.5(a) sets forth that all papers filed with the Office "must identify on the top page in a conspicuous location, the application number…or the serial number and filing date assigned to that application by the Patent and Trademark Office." As Applicant has indicated, the papers filed on May 1, 2006 contained an incorrect filing date and serial number. As such, there was no way that the Office would have known to associate the response with the correct application.

Accordingly, the petition under 37 C.F.R. §1.181(a) is **DISMISSED**.

The petition under 37 C.F.R. §1.137(b):

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.

With the present petition, Petitioner has submitted the petition fee and a statement which is being construed as the proper statement of unintentional delay. A terminal disclaimer is not required.

Regarding the required response, the papers will be removed from the electronic file associated with application No. 09/604,181 and placed into the correct electronic file in due course.

Petitioner is reminded that errors such as occurred can result in loss of rights and care must be taken to avoid such.

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

Petitioner has asserted that he "should not be obliged to pay the $1,500 petition fee[2]." The rules and statutory provisions governing the operations of the US Patent and Trademark Office require payment of a fee on filing each petition[3].

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the response of May 1, 2006 can be processed.

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

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

2 Petiiton, page 3.
3 35 USC §41(a)(7).

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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C/O SONNENSCHEIN NATH & ROSENTHAL LLP
P.O. BOX 061080
WACKER DRIVE STATION, SEARS TOWER
CHICAGO IL 60606-1080

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DEC 03 2008

In re Application of	:	
Barfurth et al.	:	
Application No. 10/383,979	:	DECISION ON PETITION
Filed: March 7, 2003	:	
Attorney Docket No. 30014200-1054	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 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 timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of February 19, 2008. A Notice of Abandonment was mailed September 19, 2008.

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.

Since the amendment submitted does not *prima facie* place the application in condition for allowance, the reply required must be a Notice of Appeal (and appeal fee), RCE, or the filing of a continuing application under 37 CFR 1.53(b).

The Examiner has responded to the Amendment After Final with an Advisory Action (copy enclosed).

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 Joan Olszewski at (571) 272-7751.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

Enclosure: Examiner's Advisory Action

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/383,979	Applicant(s) BARFURTH ET AL.	
	Examiner BENJAMIN R. BRUCKART	Art Unit 2446	

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

THE REPLY FILED 10 November 2008 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: *None*.
   Claim(s) objected to: *None*.
   Claim(s) rejected: *1, 4-9, 12, 15-20 and 23-35*.
   Claim(s) withdrawn from consideration: *None*.

AFFIDAVIT OR OTHER EVIDENCE

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

REQUEST FOR RECONSIDERATION/OTHER

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

Benjamin R Bruckart
Examiner
Art Unit: 2446

Continuation of 3. NOTE: The new amendments are made after final status and require further search and consideration.

Continuation of 11. does NOT place the application in condition for allowance because: The new amendments are made after final status and require further search and consideration.

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C/O SONNENSCHEIN NATH & ROSENTHAL LLP
P.O. BOX 061080
WACKER DRIVE STATION, SEARS TOWER
CHICAGO IL 60606-1080

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JAN 22 2009

OFFICE OF PETITIONS

In re Application of	:	
Barfurth et al.	:	
Application No. 10/383,979	:	DECISION ON PETITION
Filed: March 7, 2003	:	
Attorney Docket No. 30014200-1054	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed December 29, 2008, 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 February 19, 2008. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on May 20, 2008. A Notice of Abandonment was mailed September 19, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810.00, and the submission required by 37 CFR 1.114 (previously submitted on November 10, 2008 and again with the instant petition); (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 Joan Olszewski at (571) 272-7751.

This application is being referred to Technology Center AU 2146 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment (filed November 10, 2008 and again with the instant petition) submitted in accordance with 37 CFR 1.114.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

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FOUNTAIN VALLEY, CA 92708

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OFFICE OF PETITIONS

In re Application of Bor-Jen Wu Application No. 10/384,014 Filed: 03/07/2003 Attorney Docket No. HUS91185/PI	DECISION ON PETITION UNDER 37 CFR 1.55(c)

This is a decision on the petition under 37 CFR 1.55(c), filed July 7, 2006 via facsimile, and re-filed July 10, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for benefit of priority to the filing date of foreign Taiwan Application No. 091123874, filed October 17, 2002.

The petition is **DISMISSED**.

This application was filed after November 29, 2000, and did not include a reference to the foreign application, for which benefit is now sought, within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application. Since the claim for priority is submitted after the period specified in 37 CFR 1.55(a)(1)(i), this is an appropriate petition under the provisions of 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 Director

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 petition fails to comply with item (2) above. In this regard, a review of the file record fails to disclose that the priority information was included in an oath or declaration or in an Application Data Sheet (ADS) in accordance with 37 CFR 1.76(b)(6). Applicant filed an Amendment to the Specification on January 7, 2006, to amend the application to include the priority claim to the foreign application; however, an amendment to the first line of the specification following the title is only applicable to a petition to accept a delayed priority claim under 37 CFR 1.78 (a)(3) and (a)(6). Unless provided in an ADS, 37 CFR 1.63(c)(2) requires that the oath or declaration must identify the foreign application for patent (or inventor's certificate) for which priority is claimed under 37 CFR 1.55, and any foreign application having a filing date before that of the application on which priority is claimed, by specifying the application number, country, day, month, and year of its filing. *Note* MPEP 201.14.

In view of the above, compliance with 37 CFR 1.63(c)(2) or 37 CFR 1.76(b)(6) must be satisfied if applicant desires to claim priority to the foreign application noted in the petition. Any future petition should include a cover letter and be entitled "Renewed Petition under 37 CFR 1.55(c)."

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

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

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

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

Any questions concerning this matter may be directed to Derek L. Woods at (571) 272-3232.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
Bor-Jen Wu	:	
Application No. 10/384,014	:	DECISION ON PETITION
Filed: 03/07/2003	:	UNDER 37 CFR 1.55(c)
Attorney Docket No. HUS91185/PI	:	

This is a decision on the "Request for Reconsideration of Petition Under 37 CFR 1.55(c), filed December 28, 2006; January 12, 2007, via facsimile, and re-filed January 18, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for benefit of priority to the filing date of foreign Taiwan Application No. 091123874, filed October 17, 2002.

The petition is **GRANTED**.

This pending nonprovisional application was filed after November 29, 2000, and did not include a reference to the foreign application, for which benefit is now sought, within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application. Since the claim for priority is submitted after the period specified in 37 CFR 1.55(a)(1)(i), this is an appropriate petition under the provisions of 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 Director 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.

This application was filed on March 7, 2003, which is after November 29, 2000 and was filed within 12 months of the filing date of the foreign application to which benefit is now being claimed. On January 12, 2007, an Application Data Sheet ("ADS") was received which identifies the foreign application for which priority is claimed by application number, country and filing date. The required petition fee of $1370.00 was received with the initial petition on July 10, 2006. Lastly, petitioner has provided an adequate statement of unintentional delay.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119(a)-(d) 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 1.55(c) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 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 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 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 foreign application, accompanies this decision on petition.

This application is being referred to Technology Center AU 2826 for examination in due course and for consideration by the examiner of record of the foreign priority claim under 35 U.S.C. § 119(a)-(d).

Any inquiries directly pertaining to this matter may be directed to Derek Woods at (571) 272-3232.

Christina Tartera Donnell

Christina Donnell
Senior Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/384,014	03/07/2003	2826	375	HUS91185/PI	5	20	1

CONFIRMATION NO. 9315

CORRECTED FILING RECEIPT

OC000000022690142

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FOUNTAIN VALLEY, CA 92708

Date Mailed: 02/28/2007

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

Applicant(s)

Bor-Jen Wu, Taipei, TAIWAN;

Power of Attorney:

Clement Cheng--45463

Domestic Priority data as claimed by applicant

Foreign Applications

TAIWAN 091123874 10/17/2002

If Required, Foreign Filing License Granted: 04/28/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/384,014

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Flip-chip like light emitting device package

Preliminary Class

257

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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Title 37, Code of Federal Regulations, 5.11 & 5.15

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This license is to be retained by the licensee and may be used at any time on or after the effective date thereof

unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

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

NOT GRANTED

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

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OFFICE OF PETITIONS

In re Application of	:	
Bor-Jen Wu	:	
Application No. 10/384,014	:	DECISION ON PETITION
Filed: 03/07/2003	:	UNDER 37 CFR 1.55(c)
Attorney Docket No. HUS91185/PI	:	

This is a decision on the "Request for Reconsideration of Petition Under 37 CFR 1.55(c), filed December 28, 2006; January 12, 2007, via facsimile, and re-filed January 18, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for benefit of priority to the filing date of foreign Taiwan Application No. 091123874, filed October 17, 2002.

The petition is **GRANTED**.

This pending nonprovisional application was filed after November 29, 2000, and did not include a reference to the foreign application, for which benefit is now sought, within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application. Since the claim for priority is submitted after the period specified in 37 CFR 1.55(a)(1)(i), this is an appropriate petition under the provisions of 37 CFR 1.55(c).

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(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 Director may require additional information where there is a question whether the delay was unintentional); and

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This application is being referred to Technology Center AU 2826 for examination in due course and for consideration by the examiner of record of the foreign priority claim under 35 U.S.C. § 119(a)-(d).

Any inquiries directly pertaining to this matter may be directed to Derek Woods at (571) 272-3232.

Christina Tantera Donnell

Christina Donnell
Senior Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

OIPE IAP33
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/384,014	03/07/2003	2826	375	HUS91185/PI	5	20	1

CONFIRMATION NO. 9315

CORRECTED FILING RECEIPT

OC000000022690142

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17220 NEWHOPE STREET #127
FOUNTAIN VALLEY, CA 92708

Date Mailed: 02/28/2007

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

Applicant(s)

Bor-Jen Wu, Taipei, TAIWAN;

Power of Attorney:

Clement Cheng--45463

Domestic Priority data as claimed by applicant

Foreign Applications

TAIWAN 091123874 10/17/2002

If Required, Foreign Filing License Granted: 04/28/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/384,014

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Flip-chip like light emitting device package

Preliminary Class

257

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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This license is to be retained by the licensee and may be used at any time on or after the effective date thereof

unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

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

NOT GRANTED

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

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MAR 19 2007
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/384,014	03/07/2003	Bor-Jen Wu	HUS91185/PI	9315

23616 7590 12/29/2006
LAW OFFICES OF CLEMENT CHENG
17220 NEWHOPE STREET #127
FOUNTAIN VALLEY, CA 92708

EXAMINER
SEFER, AHMED N

ART UNIT	PAPER NUMBER
2826	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	12/29/2006 Due 2/29/07	PAPER

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

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Due March 29th, 2006

OIPE IAP33
MAR 19 2007
PATENT & TRADEMARK OFFICE

Office Action Summary	Application No.	Applicant(s)	
	10/384,014	WU, BOR-JEN	
	Examiner	Art Unit	
	A. Sefer	2826	

-- 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) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, 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 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 *01 July 2006*.

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) *1-4 and 6-20* 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) *1-4 and 6-20* 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/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 7/1/06 has been entered.

Double Patenting

2. Applicant is advised that should claim 1 be found allowable, claim 6 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Claim Rejections - 35 USC § 103

3. 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.

4. Claims 1-4 and 6-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lin et al. ("Lin") US PG-Pub 2004/0173810 in view of Kim USPN 6,420,735.

Lin discloses a light emitting device package, comprising: a transparent substrate 30/40 having a first surface with a recess 31 /41 formed thereon; a light emitting diode 10 placed in said recess of said transparent substrate, said light emitting diode having a first semiconductor layer 13 with a first conductivity and a second semiconductor layer 12 with a second conductivity with opposite to said first conductivity joining to said first semiconductor layer, wherein said light emitting diode emits light toward said second surface without reflection and being not absorbed by said transparent substrate; a first bonding pad 14 formed on a surface of said light emitting diode and electrically coupling with said first semiconductor layer; a second bonding pad 15 formed on said surface of said light emitting diode the same with said first bonding pad and electrically coupling with said second semiconductor layer; a first electrode 34a formed on said first surface of said transparent substrate, a second electrode 34b formed on said first surface of said transparent substrate, a first bonding wire 36a/35a electrically coupling between said first bonding pad and said first electrode, a second bonding wire 36b/35b electrically coupling between said second bonding pad and said second electrode, and a molding compound 37 for encapsulating said light emitting diode, said first bonding pad, said second bonding pad, said first bonding wire and said second bonding wire, but lacks anticipation of a surface having uneven portion underlying said diode.

Kim discloses in figs. 3 and 5-10 a light emitting diode with uneven surface (as in claim 6) underlying said light emitting diode.

Therefore, it would have been obvious to one skilled in the art at the time the invention was made to incorporate Kim's teachings since that would provide a condensed light as taught by Kim.

Regarding claim 2, Lin discloses (par. 0027) an adhesive material adhering said light emitting diode to said recess of transparent substrate.

Regarding claims 3 and 4, Lin discloses a step-type sidewall, and portions of said first and second electrodes respectively formed on said step-type sidewall.

As for claims 7-14, Kim discloses (see col. 4, lines 8-30) the employment of different profiles.

5. Claims 1-4, 6, 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lin in view of Chiu et al. ("Chiu") JP 2001-217467/Hashimoto et al. ("Hashimoto") JP 2002/319708.

Lin discloses a light emitting device package, comprising: a transparent substrate 30/40 having a first surface with a recess 31 /4 1 formed thereon; a light emitting diode 10 placed in said recess of said transparent substrate, said light emitting diode having a first semiconductor layer 13 with a first conductivity and a second semiconductor layer 12 with a second conductivity with opposite to said first conductivity joining to said first semiconductor layer, wherein said light emitting diode emits light toward said second surface without reflection and being not absorbed by said transparent substrate; a first bonding pad 14 formed on a surface of said light emitting diode and electrically coupling with said first semiconductor layer; a second bonding pad 15 formed on said surface of said light emitting diode the same with said first bonding pad and electrically coupling with said second semiconductor layer; a first electrode

34a formed on said first surface of said transparent substrate, a second electrode 34b formed on said first surface of said transparent substrate, a first bonding wire 36a/35a electrically coupling between said first bonding pad and said first electrode, a second bonding wire 36b/35b electrically coupling between said second bonding pad and said second electrode, and a molding compound 37 for encapsulating said light emitting diode, said first bonding pad, said second bonding pad, said first bonding wire and said second bonding wire, but lacks anticipation of a surface having an uneven portion underlying said diode.

Chiu discloses in figs. 3 and 4 a light. emitting diode with uneven surface 328/428 (as in claim 6) underlying said light emitting diode. Similarly, Hashimoto discloses in figs. 1-4 a light emitting diode with uneven surface 1Oa (as in claim 6) underlying said light emitting diode.

Therefore, in view of Chiu/Hashimoto, one having an ordinary skill in the art at the time the invention was made would be motivated to modify Lin's device by incorporating a surface having an uneven portion underlying said diode since that would promote light emission as taught by Chiu/Hashimoto.

Regarding claim 2, Lin discloses (par. 0027) an adhesive material adhering said light emitting diode to said recess of transparent substrate.

Regarding claims 3 and 4, Lin discloses a step-type sidewall, and portions of said first and second electrodes respectively formed on said step-type sidewall.

As for claims 15 and 16 Hashimoto discloses a flip-chip like package, comprising: a transparent substrate or sapphire substrate.

6. Claims 15-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lin in view of Kim as applied to claims 1 and 2 above, and further in view of Kamada US PG-Pub 2003/0168720.

The combined references disclose the device structure as recited in the claim, but do not specifically disclose an adhesive material comprising fluorescent powder.

Kamada discloses (see par. 0091) an adhesive material or fluorescent powder adhering a light emitting diode to a substrate surface.

Therefore, it would have been obvious to one skilled in the art at the time the invention was made to employ an adhesive material since that would provide an arbitrary tone of white light as taught by Kamada.

As for claim 18, Lin discloses a step-type sidewall, and portions of said first and second electrodes respectively formed on said step-type sidewall.

As for claims 15, 16, 19 and 20 Kamada discloses a flip-chip like package, comprising: a transparent substrate or quartz/glass substrate.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to A. Sefer whose telephone number is (571) 272-1921.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Flynn can be reached on (571) 272-1915.

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).

ANS
December 8, 2006

A. Sefer
Patent Examiner
Art Unit 2826

OIPE IAP03
MAR 19 2007
PATENT & TRADEMARK OFFICE

Notice of References Cited	Application/Control No. 10/384,014	Applicant(s)/Patent Under Reexamination WU, BOR-JEN	
	Examiner A. Sefer	Art Unit 2826	Page 1 of 1

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
*	A	US-2004/0173810	09-2004	Lin et al.	257/100
	B	US-			
	C	US-			
	D	US-			
	E	US-			
	F	US-			
	G	US-			
	H	US-			
	I	US-			
	J	US-			
	K	US-			
	L	US-			
	M	US-			

FOREIGN PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

NON-PATENT DOCUMENTS

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
	W	
	X	

*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.

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OFFICE OF PETITIONS

MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP
300 S. WACKER DRIVE
32ND FLOOR
CHICAGO IL 60606

In re Application of	:
Lawyer, et al.	: LETTER REGARDING PTA
Application No. 10/384,044	:
Filed: March 7, 2003	:
Atty. Dkt. No.: 08-735	:

This letter is in response to the "GOOD FAITH AND CANDOR LETTER," filed March 10, 2009. The Office thanks applicants for their good faith and candor in bringing this to our attention.

The Determination of Patent Term Adjustment mailed December 10, 2008 indicated that the above-identified application was entitled to a patent term adjustment ("PTA") of 89 days. Applicants indicate that the correct adjustment should be zero days. Applicants direct the Office's attention to two errors in the calculation of adjustment. Specifically, the Office's attention is directed to the adjustment of 206 days accorded in connection with the mailing of the Board decision on February 1, 2007 and, further, the Office's attention is directed to the adjustment of 70 days in connection with the mailing of the non-final Office action on August 10, 2007.

The correct Patent Term Adjustment ("PTA") at the time of the allowance is zero days, as indicated by applicants.

The calculation of adjustment has been carefully reviewed and the errors indicated by applicants have been noted. The adjustment of 10 days under 37 CFR 1.702(a)(2) in connection with the mailing of the final Office action on March 26, 2008 was correctly calculated. Further, the reductions to date of 197 days were also correctly calculated.

As indicated by applicants, the application was errantly accorded an adjustment of 206 days in connection with the mailing of the Board decision on February 1, 2007. As the rules currently do not prescribe a time period by which the Board must mail a decision on an applicant's appeal, this adjustment is in error and has been removed.

As further indicated by applicants, the application was errantly accorded an adjustment of 70 days in connection with the mailing of the non-final Office action August 10, 2007. The examiner was affirmed in toto, as indicated in the Board decision mailed February 1, 2007; thus, at the time of mailing of the Board decision, there were no allowable claims pending in the application. Accordingly, the adjustment of 70 days under 37 CFR 1.702(a)(3) is not warranted. Instead, the application is entitled to an adjustment of five days, not 70 days, in accordance with 37 CFR 1.702(a)(2) in connection with the mailing of the non-final Office action on August 10,

2007. The adjustment commenced August 6, 2007, the day after the date that is four months after the date that the request for continued examination was filed, and ended August 10, 2007, the date that the non-final Office action was mailed.

Accordingly, as of the time of allowance, the application is entitled to an adjustment of zero days (adjustments totalling 15 days less reduction of 197 days.

As applicants are advising us of a potential error in providing too much patent term adjustment in this application, no fee is due in connection with this matter.

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

This application is being forward to the Office of Data Management for issuance of the patent.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

Enclosure: Copy of Adjustment PAIR Calculation

Day : Saturday
Date: 7/18/2009

PALM INTRANET

Time: 07:41:41

PTA Calculations for Application: 10/384044			
Application Filing Date:	03/07/2003	PTO Delay (PTO):	286
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	197
Post-Issue Petitions:	0	Total PTA (days):	0
PTO Delay Adjustment:	-271		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
115	07/18/2009	ADJUSTMENT OF PTA CALCULATION BY PTO	5		
114	07/18/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		206	
113	07/18/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		70	
105	12/10/2008	MAIL NOTICE OF ALLOWANCE			
101	12/05/2008	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
100	12/05/2008	ISSUE REVISION COMPLETED			
99	12/05/2008	DOCUMENT VERIFICATION			
98	12/05/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
97	12/05/2008	CASE DOCKETED TO EXAMINER IN GAU			
96	11/24/2008	NOTICE OF ALLOWABILITY			
95	09/26/2008	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
94	10/20/2008	DATE FORWARDED TO EXAMINER			
93	09/26/2008	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
92	10/20/2008	DATE FORWARDED TO EXAMINER			
91	09/26/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)		92	86
90	10/20/2008	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
89	09/26/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
88	10/18/2008	CORRESPONDENCE ADDRESS CHANGE			
87	09/26/2008	WORKFLOW - REQUEST FOR RCE - BEGIN			
86	03/26/2008	MAIL FINAL REJECTION (PTOL - 326)	10		80
85	03/24/2008	FINAL REJECTION			

84	03/06/2008	MAIL-PETITION DECISION - DISMISSED			
83	03/06/2008	PETITION DECISION - DISMISSED			
82	12/06/2007	PETITION ENTERED			
81	12/03/2007	DATE FORWARDED TO EXAMINER			
80	11/16/2007	RESPONSE AFTER NON-FINAL ACTION		6	79
79	08/10/2007	MAIL NON-FINAL REJECTION	70		65
78	08/06/2007	NON-FINAL REJECTION			
77	05/31/2007	DISPOSAL FLAG CHANGE			
76	05/31/2007	ADD DISPOSAL COUNT			
75	05/31/2007	DATE FORWARDED TO EXAMINER			
74	04/05/2007	RCE- AF PROCESSED			
73	05/31/2007	DATE FORWARDED TO EXAMINER			
72	04/05/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)			
71	05/31/2007	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
70	06/01/2007	MAIL NOTICE OF RESCINDED ABANDONMENT			
69	05/31/2007	NOTICE OF RESCINDED ABANDONMENT IN TCS			
68	04/10/2007	MAILING OF ABANDONMENT AFTER BOARD OF APPEALS			
67	04/05/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
66	04/03/2007	ABANDONMENT AFTER BOARD OF APPEALS			
65	02/01/2007	MAIL BPAI DECISION ON APPEAL - AFFIRMED	206		50
64	01/31/2007	BPAI DECISION - EXAMINER AFFIRMED			
63	09/15/2006	DOCKETING NOTICE MAILED TO APPELLANT			
61	09/13/2006	ASSIGNMENT OF APPEAL NUMBER			
60	08/28/2006	APPEAL AWAITING BPAI DOCKETING			
58	08/10/2006	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
57	08/07/2006	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
56	05/16/2003	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
55	06/14/2006	ORDER RETURNING UNDOCKETED APPEAL TO THE EXAMINER			
54	05/31/2006	APPEAL AWAITING BPAI DOCKETING			
53	05/18/2006	MAIL REPLY BRIEF NOTED BY EXAMINER			
52	05/16/2006	REPLY BRIEF NOTED BY EXAMINER			

51	03/14/2006	DATE FORWARDED TO EXAMINER			
50	03/10/2006	REPLY BRIEF FILED			
49	01/26/2006	MAIL EXAMINER'S ANSWER			
48	01/23/2006	EXAMINER'S ANSWER TO APPEAL BRIEF			
47	01/23/2006	DATE FORWARDED TO EXAMINER			
46	11/02/2005	APPEAL BRIEF FILED			
45	09/06/2005	NOTICE OF APPEAL FILED			
36	08/03/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
35	06/15/2005	MAIL FINAL REJECTION (PTOL - 326)			
34	06/06/2005	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
33	06/13/2005	FINAL REJECTION			
30	03/19/2005	DATE FORWARDED TO EXAMINER			
29	03/07/2005	RESPONSE AFTER NON-FINAL ACTION		95	27
28	03/07/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
27	09/02/2004	MAIL NON-FINAL REJECTION			
26	09/01/2004	NON-FINAL REJECTION			
25	07/06/2004	CORRESPONDENCE ADDRESS CHANGE			
24	07/02/2004	DATE FORWARDED TO EXAMINER			
23	06/23/2004	REQUEST FOR CONTINUED EXAMINATION (RCE)			
22	07/02/2004	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
21	06/23/2004	WORKFLOW INCOMING AMENDMENT IFW			
20	06/23/2004	WORKFLOW - REQUEST FOR RCE - BEGIN			
19	06/10/2004	MAIL ADVISORY ACTION (PTOL - 303)			
18	06/09/2004	ADVISORY ACTION (PTOL-303)			
17	05/27/2004	DATE FORWARDED TO EXAMINER			
16	05/20/2004	AMENDMENT AFTER FINAL REJECTION			
15	05/20/2004	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
14	05/20/2004	WORKFLOW INCOMING AMENDMENT IFW			
13	03/25/2004	MAIL FINAL REJECTION (PTOL - 326)			
12	03/22/2004	FINAL REJECTION			
11	12/31/2003	IFW AMENDED CASE PROCESSING COMPLETE			
10	12/31/2003	DATE FORWARDED TO EXAMINER			
9	12/12/2003	RESPONSE AFTER NON-FINAL ACTION		4	7

8.7	05/16/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
8	05/16/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
7	09/08/2003	MAIL NON-FINAL REJECTION			
6	09/08/2003	NON-FINAL REJECTION			
5	06/05/2003	CASE DOCKETED TO EXAMINER IN GAU			
4	05/08/2003	APPLICATION DISPATCHED FROM OIPE			
3	05/07/2003	APPLICATION IS NOW COMPLETE			
2	03/26/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	03/07/2003	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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OFFICE OF PETITIONS

In re Application of
Thomas B. Blank et al
Application No. 10/384,049
Filed: March 7, 2003
Attorney Docket No. SENS0014

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed July 9, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed with the petition.

The petition is **GRANTED**.

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

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

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

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37

CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

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

Any inquiries concerning this decision may be directed to Irvin Dingle at (571) 272-3210. 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 3768 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed application.

David Bucci
Petition Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/384,049	03/07/2003	3768	751	SENS0014	24	2

CONFIRMATION NO. 2559

CORRECTED FILING RECEIPT

22862
GLENN PATENT GROUP
3475 EDISON WAY, SUITE L
MENLO PARK, CA 94025

OC000000029944346

Date Mailed: 05/14/2008

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)

Thomas B. Blank, Chandler, AZ;
Timothy L. Ruchti, Gilbert, AZ;
Mutua Mattu, Gilbert, AZ;
Marcy Makarewicz, Chandler, AZ;
Stephen L. Monfre, Gilbert, AZ;
Alexander D. Lorenz, Chandler, AZ;

Power of Attorney:

Michael Glenn--30176
Donald Hendricks--40355
Kirk Wong--43284
Christopher Peil--45005
Julia Thomas--52283
Kevin Hazen--53006

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/363,345 03/08/2002
and is a CIP of 09/955,531 09/17/2001 PAT 6,640,117
which claims benefit of 60/235,369 09/26/2000
This application 10/384,049
is a CIP of 10/349,573 01/22/2003 PAT 7,039,446

Foreign Applications

If Required, Foreign Filing License Granted: 05/05/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/384,049**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****
Title

METHOD AND APPARATUS FOR CONTROL OF SKIN PERFUSION FOR INDIRECT GLUCOSE MEASUREMENT

Preliminary Class

600

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

NOT GRANTED

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

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MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C
ONE FINANCIAL CENTER
BOSTON, MA 02111

Mail Date: 05/07/2010

Applicant	: Bajko Gabor	: DECISION ON REQUEST FOR
Patent Number	: 7624266	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/384,058	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/07/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **953** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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ROBERT M.SPERRY, ESQ.
23390 OSTRONIC DRIVE
WOODLAND HILLS, CA 91367

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DEC 0 2 2009

OFFICE OF PETITIONS

ON PETITION

In re Patent No. 6,924,428 :
Issue Date: August 2, 2005 :
Application No. 10/384,059 :
Filed: March 7, 2003 :
Attorney Docket No. PAYNE :

This is a decision on the petition under 37 CFR 1.378(c), filed October 5, 2009, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **DISMISSED**.

The patent issued August 2, 2005. The first maintenance fee could have been paid from August 4, 2008 through February 3, 2009, or with a $65 surcharge during the period from February 3, 2009 through August 2, 2009. Accordingly, the patent expired at midnight February 2, 2009, for failure to timely submit, the (first) 3 ½ year maintenance fee.

A petition to accept the unintentionally delayed payment of a maintenance fee under 35 U.S.C. 41(c) and 37 CFR 1.378(c) must be accompanied by: (1) a statement that the delay was unintentional; (2) payment of the appropriate maintenance fee, unless previously submitted; (3) payment of the surcharge set forth in 37 CFR 1.20(i)(2). This petition lacks item 3 above.

A review of the application reveals that the petitioner supplied part of the surcharge for filing a petition under the provisions of 37 CFR 1.378(c) received October 5, 2009. The surcharge required 37 CFR 1.20(i)(1) of $1640 and petitioner only paid $65. An additional $1605 is required to meet the fee requirements of the petition. If the petitioner intends to submit a renewed petition the fee set forth under 37 CFR 1.16(f) the required fee of $1605 must be submitted along with the renewed petition.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within **TWO (2) MONTHS** from the mail date of this decision. **No extension of this two-month time limit can be granted under 37 CFR 1.136(a) or (b)**. This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Any petition for reconsideration of this decision must be accompanied by the **petition fee of $400** as set forth in 37 CFR 1.17(f). The petition for reconsideration must include the lacking item(s) noted below, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Director.

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 Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is (571) 273-8300.

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

April M. Wise
Petitions Examiner
Office of Petitions

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

ROBERT M.SPERRY, ESQ.
23390 OSTRONIC DRIVE
WOODLAND HILLS, CA 91367

In re Patent No. 6,924,428 :
Issue Date: August 2, 2005 :
Application No. 10/384,059 : ON PETITION
Filed: March 7, 2003 :
Attorney Docket No. PAYNE :

This is a decision on the renewed petition under 37 CFR 1.378(c), filed January 19, 2010, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on August 2, 2009 for failure to pay the 3 ½ year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

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

A review of the record shows that petitioner overpaid the required fees for reinstatement of this patent. A refund in the amount of $1195 for overpayment will be refunded by treasury check.

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

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

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SUGHRUE MION, PLLC
2100 Pennsylvania Avenue, NW
Washington DC 20037-3213

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OFFICE OF PETITIONS

In re Application of	:	
Mouri et al.	:	
Application No. 10/384,061	:	ON PETITION
Patent: 6839537	:	
Issued: January 4, 2005	:	
Filed: March 10, 2003	:	
Attorney Docket No. Q74546	:	
Title: Fixing Device	:	

This is a decision on the petition under 37 CFR 1.182, filed on August 17, 2005, to correct the third named inventor's name and accept the correction of the inventor's name on the front page of the above-identified patent.

The petition is **GRANTED**.

The last name of the third inventor will be changed from "Tajjima" to –**Tajima**--.

The decision is being forwarded to the Certificates 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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DEC 28 2006

JONDLE & ASSOCIATES P.C.
858 HAPPY CANYON ROAD SUITE 230
CASTLE ROCK CO 80108

In re Application of	
Frances Gawthrop	:
Serial No.: 10/384,068	:
Filed: March 7, 2003	: PETITION DECISION
Attorney Docket No.: N1442-002	:

This is in response to the petition under 37 CFR § 1.59(b), filed December 14, 2006, to expunge information from the above identified application. This application has not been allowed.

Petitioner requests that the Reply to Request for Information Under 37 CFR 1.105, and attachment thereto, submitted to the Patent Office on November 2, 2006, be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

This is an examined application which is currently under final rejection. As such the information provided has been reviewed, in part, but proceedings in the application have not been terminated. As stated in M.P.E.P. 724, upon allowance or other action closing prosecution in an application, petition may be made for return of Proprietary information. The information cannot be expunged at this time.

The petition is **DISMISSED**. Applicant may resubmit the petition subsequent to a Notice of Allowability or *ex parte Quayle* action being mailed in the application. No additional petition fee will be required at that time.

Should there be any questions about this decision please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 703-872-9306.

George C. Elliott, for

Bruce Kisliuk
Director, Technology Center 1600

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/384,068	03/07/2003	Frances Gawthrop	1442-001	9743

32905 7590 08/31/2009
JONDLE & ASSOCIATES P.C.
858 HAPPY CANYON ROAD SUITE 230
CASTLE ROCK, CO 80108

EXAMINER
HWU, JUNE

ART UNIT	PAPER NUMBER
1661	

MAIL DATE	DELIVERY MODE
08/31/2009	PAPER

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

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

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JONDLE & ASSOCIATES P.C.
858 HAPPY CANYON ROAD SUITE 230
CASTLE ROCK CO 80108

AUG 3 1 2009

In re Application of:
Frances Gawthrop
Serial No.: 10/384,068
Filed: March 7, 2003
Attorney Docket No.: **1442-001**

: PETITION DECISION

This is in response to the renewed petition under 37 CFR § 1.59(b), filed August 27, 2009, 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 November 2, 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.

Therefore, petitioner'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
Technology Center 1600

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COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. _____

Date : April 29, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Thomas A. Fontana
Application No. :10/384,075
Filed :March 5, 2003

The above-identified application has been assigned Patent No. 6,887,306 and an issue date of May 3, 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 3, 2005:

"All reference to Patent No. 6,887,306 to Thomas A. Fontana of Netherlands for ROSIN PHENOLIC RESINS FOR PRINTING INKS appearing in the Official Gazette of May 3, 2005 should be deleted since no patent was granted."

Karen Creasy

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

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

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HOLLYWOOD FL 33022-2480

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OFFICE OF PETITIONS

In re Application of	:	
Thomas A. Fontana	:	
Application No. 10/384,075	:	ON PETITION
Filed: March 5, 2003	:	
Attorney Docket No. 921042.447	:	

This is a decision on the petition, filed April 28, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 23, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 1711 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

---

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

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

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OFFICE OF PETITIONS

In re Application of	:	
KARI et al.	:	
Application No. 10/384,103	:	DECISION ON PETITION
Filed: March 6, 2003	:	TO WITHDRAW
Attorney Docket No. 021630-001100US	:	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 1, 2005.

The request is **APPROVED**.

A review of the file record indicates that Nicholas Sherbina and those practitioners associated with Customer Number 20350: (1) do not have power of attorney in this patent application but (2) have been employed or otherwise engaged in the proceedings in this patent application. The Power of Attorney filed on March 6, 2003 was not complete, in that the power of attorney was signed by the assignee without an accompanying statement under 37 CFR 3.73(b). Nicholas Sherbina and those practitioners associated with Customer Number 20350 have been withdrawn from the present application and may not prepare or submit papers under 37 C.F.R. § 1.34, or correspond in any manner in this application unless appointed in an acceptable power of attorney under 37 C.F.R. § 1.32(b).

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

Applicant is reminded that there is no attorney of record at this time.

The Request for Continued Examination filed on May 25, 2006 and its accompanying submission will be forwarded to Art Unit 3738 for consideration.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4787.

Denise Pothier
Petitions Examiner
Office of Petitions

cc: STUART KARI
1267 EAGLE DRIVE
WINDSOR, CA 95492

cc: HOFFMAN & BARON
DANIEL A. SOOLA, JR.
1055 PARSIPPANY BLVD.
PARSIPPANY, NJ 07054

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SAN FRANCISCO CA 94111-3834

In re Application of: FAIRBANKS, BRENT ALAN Serial No.: 10/384,104 Filed: March 6, 2003 Attorney Docket No.: **15114-035430**	: : : : :	*SUA SPONTE* DECISION WITHDRAWING HOLDING OF ABANDONMENT

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

The application was held abandoned for failure to timely submit a brief in response to the Notice of Appeal filed on September 11, 2006. A Notice of Abandonment was mailed on April 9, 2007.

A review of the written record indicates that a Final Office action was mailed on March 6, 2006 setting a three-month shortened statutory period for reply. The review also reveals that on September 11, 2006, a response was filed with a Petition for Extension of Time for three months, a Notice of Appeal and the requisite fees in response to the Final Office action. The review further reveals that a Request for Continued Examination, an Amendment and a Petition for Extension of Time for five months was filed on April 11, 2007, but neither was matched with the application file prior to the mailing of the Notice of Abandonment. The examiner held the application to be abandoned based on applicant's failure to timely reply.

The Request for Continued Examination, the Amendment, the Petition for Extension of Time for five months and the requisite fees was a timely response to the September 11, 2006 Notice of Appeal, therefore the abandonment of the application was premature. The application was not abandoned in fact.

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

Inquiries related to this decision should be directed to Jose' G. Dees at (571) 272-1569.

Robert Oberleitner, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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CHIAYU AL/OPTOPLEX CORPORATION
3390 GATEWAY BLVD.
FREMONT CA 94538

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OFFICE OF PETITIONS

In re Patent No. 6,909,549	:	
Issue Date: June 21, 2005	:	
Application No. 10/384,122	:	DECISION ON PETITION
Filed: March 6, 2003	:	
Attorney Docket No. 122078.00004	:	

This is a decision on the petition under 37 CFR 1.378(c), filed September 23, 2009 to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on June 22, 2009 for failure to pay the three and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

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

The address given on the petition differs from the address of record. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

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

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Antonio R. Durando
6902 N. Table Mountain Road
Tucson, Arizona 85718-1331

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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HOWREY LLP-CA
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SEP 05 2008

OFFICE OF PETITIONS

In re Application of	:	
Beier	:	
Application No. 10/384,148	:	DECISION
Filed: 6 Mach, 2003	:	
Attorney Docket No. 03528.0129.CNUS01	:	
	:	

This is a decision on the petition, filed 12 March, 2007, considered as a petition under 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application

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

As to the Request to Withdraw
the Holding of Abandonment

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

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

- (for a showing of timely and proper reply) requires a statement from practitioner stating that the reply was timely submitted by the practitioner; and copies of all papers submitted

as and/or in support of that reply, with/and a copy of the date-stamped receipt card, Office FAX receipt acknowledgement (not simply Petitioner's FAX transmittal), or EFS receipt acknowledgment from the Office, along with practitioner's attestation as to the correctness/completeness of his/her records.

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

Petitioner's attention always is drawn to the guidance in the Commentary at MPEP §711.03(c).[1]

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[1] The Commentary at MPEP §711.03(c) provides in pertinent part:

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I. PETITION TO WITHDRAW HOLDING OF ABANDONMENT

A petition to revive an abandoned application (discussed below) should not be confused with a petition from an examiner's holding of abandonment. Where an applicant contends that the application is not in fact abandoned (e.g., there is disagreement as to the sufficiency of the reply, or as to controlling dates), a petition under 37 C.F.R. 1.181(a) requesting withdrawal of the holding of abandonment is the appropriate course of action, and such petition does not require a fee. Where there is no dispute as to whether an application is abandoned (e.g., the applicant's contentions merely involve the cause of abandonment), a petition under 37 C.F.R. 1.137 (accompanied by the appropriate petition fee) is necessary to revive the abandoned application.

Two additional procedures are available for reviving an application that has become abandoned due to a failure to reply to an Office Action: (1) a petition under 37 C.F.R. 1.137(a) based on unavoidable delay; and (2) a petition under 37 C.F.R. 1.137(b) based on unintentional delay.

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 **>describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.

Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.

A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the 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).

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).

Petitioner seeks to provide the documentation in compliance with the Commentary at MPEP §711.03(c)(A) and/or (B) as it is set forth on the website (and included for reference herein).

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the non-final Office action mailed on 31 May, 2006, with a reply due absent extension of time on or before 31 August, 2006.

The application went abandoned by operation of law after midnight 31 August, 2006.

The Office mailed the Notice of Abandonment on 30 January, 2007.

On 12 March, 2007, Petitioner filed the petition requesting withdrawal of the holding of

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B.Petition To Withdraw Holding of Abandonment Based on Evidence That a Reply Was Timely Mailed or Filed

37 C.F.R. 1.10(c) through 1.10(e) and 1.10(g) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 C.F.R. 1.10(c), (d), (e), or (g) (see MPEP § 513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.

Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP § 503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.

Where a certificate of mailing under 37 C.F.R. 1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 C.F.R. 1.8(b) and MPEP § 512. As stated in 37 C.F.R. 1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 C.F.R. 1.8).

37 C.F.R. 1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 C.F.R. 1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP §512.

C.Treatment of Untimely Petition To Withdraw Holding of Abandonment

37 C.F.R. 1.181(f) provides that, *inter alia*, except as otherwise provided, any petition not filed within 2 months from the action complained of may be dismissed as untimely. Therefore, any petition (under 37 C.F.R. 1.181) to withdraw the holding of abandonment not filed within 2 months of the mail date of a notice of abandonment (the action complained of) may be dismissed as untimely. 37 C.F.R. 1.181(f).
Rather than dismiss an untimely petition to withdraw the holding of abandonment under 37 C.F.R. 1.181(f), the Office may require a terminal disclaimer as a condition of granting an untimely petition to withdraw the holding of abandonment.

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abandonment under 37 C.F.R. §1.181 averring timely filing supported with a copy of the dated ("OCT 30 2006") receipt card and a copy of the amendment averred to have been filed on 30 October, 2006, with a request and fee authorization for a two- (2-) month extension of time (now charged as authorized to Deposit Account 08-3038, reference 03528.0129.CNUS01).

Petitioner's showing appears to comply with the guidance in the Commentary at MPEP §711.03(c).

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

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.

Allegations as to the Request to
Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[3] (See, also, the commentary at MPEP §711.03(c)(I)(A) and (B).)

And the regulation requires that relief be sought within two (2) months of the act complained of.

Petitioner appears to have satisfied the showing requirements as discussed hereinabove.

CONCLUSION

The petition under 37 C.F.R. §1.181 is **granted**, and the 30 January, 2007, Notice of Abandonment is **vacated**.

The instant application is released to Technology Center/AU 1637 for further processing in due course.

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

[3] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

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

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[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.

EXPRESS MAIL NO: EV 979850332 US **Mailed October 30, 2006**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Markus Beier, *et al.*	Art Unit: 1637
Appl. No.: 10/384,148	Examiner: Riley, Jezia
Filed: March 6, 2003	Attorney Docket: 03528.0129.CNUS01
For: **METHOD FOR CONTROLLING QUALITY IN THE CONSTRUCTION OF OLIGOMER ARRAYS**	Confirmation No. 2877

RESPONSE TO OFFICE ACTION

MS AMENDMENT
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22213-1450

Sir:

This is in response to the Office Action dated **May 31, 2006**, and is submitted on or before the extended due date of **October 31, 2006**. A constructive petition for a two-month extension of time under 1.136(a)(3) and its requisite fee of $225.00 are enclosed herewith. The Examiner is requested to reconsider the application.

The U.S. Patent and Trademark Office is hereby authorized to charge any fee deficiency, including fees under §1.17; or credit any overpayment, to our Deposit Account No. 08-3038 referencing Atty. Dkt. No. 03528.0129.CNUS01.

09/05/2008 CKHLOK 00000012 083038 10384148
01 FC:2252 230.00 DA

CONCLUSION

Applicants believe that the application is in good and proper condition for allowance. Early notification of allowance is earnestly solicited.

Respectfully submitted,

Date: October 30, 2006

Viola T. Kung (Reg. No. 41,131)

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Falls Church, VA 22042
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PATTI & BRILL
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44TH FLOOR
CHICAGO, IL 60602

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AUG 15 2003
OFFICE OF PETITIONS

In re Application of :
Tina Lee Hinch, Mann-Yi Hsieh, :
Chung-You Patrick Liu, Anthony : DECISION GRANTING PETITION
Murphy Scafidi, Charles Arthur : UNDER 37 CFR 1.47(a)
Witschorik and James Wu :
Application No. 10/384,159
Filed: March 7, 2003
Title: METHOD AND SYSTEM FOR PACKET AND CIRCUIT TELEPHONE IN A DISTRIBUTED TELECOMMUNICATIONS SWITCHING SYSTEM

This is in response to the "Petition Under 37 CFR 1.47(a)," filed July 1, 2003.

The petition is **granted**.

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ANTHONY MURPHY SCAFIDI
4 BRIDLEWOOD LANE
NORTHFIELD, IL 60093

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AUG 1 5 2003

OFFICE OF PETITIONS

In re Application of
Tina Lee Hinch, Mann-Yi Hsieh, Chung-You Patrick Liu, Anthony Murphy Scafidi, Charles Arthur Witschorik and James Wu
Application No. 10/384,159
Filed: March 7, 2003
Title: METHOD AND SYSTEM FOR PACKET AND CIRCUIT TELEPHONE IN A DISTRIBUTED TELECOMMUNICATIONS SWITCHING SYSTEM

Dear ANTHONY MURPHY SCAFIDI:

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

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

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

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

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UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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CRAWFORD MAUNU PLLC
1150 NORTHLAND DRIVE, SUITE 100
ST. PAUL, MN 55120

Mail Date: 04/21/2010

Applicant	: James S. Harris JR.	: DECISION ON REQUEST FOR
Patent Number	: 7604981	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/384,166	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/07/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1885** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Paper No. 5

GROSSMAN, TUCKER, PERREAULT & PFLEGER, PLLC
55 SOUTH COMMERCIAL STREET
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SEP 2 9 2003

OFFICE OF PETITIONS

In re Application of	:	
Minasian et al.	:	
Application No. 10/384,181	:	DECISION DISMISSING
Filed: 7 March, 2003	:	PETITION
Atty Docket No. PCB103	:	

This is a decision on the petition styled under 37 CFR 1.78(a)(3), filed on 31 July, 2003, which is treated as a petition under 37 CFR 1.78(a)(6) to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of a prior-filed provisional application.

The petition is **DISMISSED**.

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after 29 November, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5) 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) of the prior-filed application, unless previously submitted;[1]

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

[1]Any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed provisional applications must contain or be amended to contain a reference (i.e., in an amendment to the first line of the specification following the title or in an application data sheet (ADS)) to each such prior-filed application, identifying it by application number (consisting of the series code and serial number).

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

The instant pending nonprovisional application was filed on 7 March, 2003, within twelve months of the filing date of the prior provisional application, Application No. 60/362,854, which was filed on 7 March, 2002, and for which priority is claimed. A reference to the prior provisional application has been included as an amendment to the first sentence of the specification following the title.

The instant nonprovisional application was filed after 29 November, 2000, and the claim for priority herein is submitted after expiration of the period specified in 37 CFR 1.78(a)(5). Also, the reference to the prior-filed provisional application was submitted during the pendency of the nonprovisional application for which the benefit is sought. *See* 35 U.S.C. § 119(e).

However, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior application. Petitioner's attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980) where the court drew a distinction between a permissible 35 U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. The court specifically stated:

> Section 120 merely provides mechanism whereby an application becomes entitled to benefit of the filing date of an earlier application disclosing the same subject matter. Common subject matter must be disclosed, in both applications, either specifically or by an express incorporation-by-reference of prior disclosed subject matter. Nothing in section 120 itself operates to carry forward any disclosure from an earlier application. In re de Seversky, supra at 674, 177 USPQ at 146-147. Section 120 contains no magical disclosure-augmenting powers able to piece new matter barriers. It cannot, therefore, "limit" the absolute and express prohibition against new matter contained in section 251.

While Dart Industries speaks to applications filed under 35 U.S.C. § 120, which section pertains to nonprovisional applications, the same rationale would apply where an applicant is seeking to amend an application to insert a reference to an earlier-filed provisional application.

Accordingly, before the petition under 37 CFR 1.78(a)(3) can be granted, a substitute amendment deleting the incorporation by reference statement is required.

In order to expedite consideration, petitioner may wish to submit the substitute amendment by facsimile to the number indicated below and to the attention of Senior Petitions Attorney Douglas I. Wood.

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

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

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

By hand: Crystal Plaza Four, Suite CP4-3C23
2201 South Clark Place
Arlington, VA 22202

Telephone inquires should be directed to Senior Petitions Attorney Douglas I. Wood at 703-308-6918.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

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DW 10-03

Paper No. 8

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OCT 17 2003
OFFICE OF PETITIONS

In re Application of
Minasian et al.
Application No. 10/384,181
Filed: 7 March, 2003
Atty Docket No. PCB103

DECISION GRANTING PETITION

This is a decision on the renewed petition filed on 2 and supplemented on 10 October, 2003, which is treated as a petition filed under 37 CFR 1.78(a)(3) to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of a prior-filed nonprovisional application.

The petition is **GRANTED**.

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

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

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

[1]Any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed copending applications or international applications designating the United States of America must contain or be amended to contain a reference (amendment to the first line of the specification following the title or in an application data sheet (ADS) to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) or international application number and international filing date and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate. (see § 1.14).

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

The present pending application was filed on 7 March, 2003, and was copending with the above-noted, prior-filed nonprovisional application, at the time of filing, for which priority is claimed (which issued as U.S. Patent 6,557,668 on 36 May, 2003). A reference to the above-noted, prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title, which was filed concurrently with the present petition under 37 CFR 1.78(a)(3).

The present nonprovisional application was filed after 29 November, 2000, and the claim for priority herein is submitted after the expiration of the period specified in 37 CFR 1.78(a)(2). Also, the reference to the prior-filed nonprovisional was submitted during the pendency of the nonprovisional application for which the benefit is sought. *See* 35 U.S.C. § 120. Accordingly, having found that the present petition satisfies the conditions of 37 CFR 1.78(a)(3) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. § 120, the petition to accept an unintentionally delayed claim to benefit to prior-filed Application No. 09/836,033 is granted as of the date of filing the petition.

The benefit claim has been entered in Office records. A corrected Filing Receipt accompanies this decision.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the 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. Petitioners are advised that in future filings, any amendment must be filed in a separate paper to avoid confusion.[2]

The application is being forwarded to the Office of Initial Patent Examination. Thereafter, the application will be forwarded to Technology Center 3600 for processing the amendment embodied in the petition filed on 2 and supplemented on 10 October, 2003, and for consideration by the examiner of the claim under 35 U.S.C. § 120 and 37 CFR 1.78(a)(3) for the benefit of the above-noted, prior-filed nonprovisional application.

Telephone inquiries related to this decision should be directed to Senior Petitions Attorney Douglas I. Wood at 703-308-6918.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

Encl: Corrected Filing Receipt

[2] See 37 CFR 1.4(c).

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ORLANDO, FL 32802

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OCT 17 2003

OFFICE OF PETITIONS

In re Application of :
Michael L. Suter, Eitan Zehavi and :
David Chiel : DECISION REFUSING STATUS
Application No. 10/384,189 : UNDER 37 CFR 1.47(a)
Filed: March 7, 2003 :
For: FRUIT HARVESTER INCLUDING TELESCOPING BOOM AND RELATED METHODS

This is in response to the "Petition Under 37 CFR 1.47(a)," filed September 26, 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 7, 2003 without an executed oath or declaration and naming Michael L. Suter, Eitan Zehavi and David Chiel as joint inventors.

Accordingly, on May 23, 2003, a "Notice to File Missing Parts of Application" was mailed, requiring an executed oath or declaration and filing fee, and a surcharge for their late filing.

In response, on September 26, 2003, the instant petition was filed.

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.

As to item (1), Petitioner states:

> "As evidence of the express refusal to join in the application, attached as Exhibit A, is a letter dated December 11, 2002, addressed to me *from Mr. Zehavi on behalf of himself and Mr. Chiel*. The letter gives as the reason for refusing to join, the mistaken belief that if Mr. Suter is named as inventor, then there is no need for anyone else to be named inventor. ... As further evidence of the express refusal to join in the application, attached as exhibit B, is a letter dated February 6, 2003, addressed to me *from Mr. Zehavi on behalf of himself and Mr. Chiel*. This letter gives as the reason for refusing to join, the mistaken belief that the claimed invention is not patentable over the prior art attached to the letter." Emphasis added.

Though petitioner asserts that the letters in both exhibits are "from Mr. Zehavi on behalf of himself and Mr. Chiel," there is no indication of this on either letter. Both letters are signed by non-signing inventor Eitan Zehavi only. Non-signing inventor David Chiel is not mentioned at all on either document and there is no mention that the letters are on behalf of non-signing inventor David Chiel. As such, petitioner has not shown that non-signing inventor David Chiel has expressly refused to join in the application. Accordingly, the petition must be dismissed.

Petitioner should show that the non-signing inventor expressly refused to join in the application or that a copy of the

application papers was presented to the inventor, but that he did not respond to the request that he sign the oath/declaration in order to show that the inventor has refused to join in the application. The proof of the pertinent events should be made by a statement of someone with first hand knowledge of the events.

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

By mail: Mail Stop Petition
Commissioner for Patents
Box 1450
Alexandria, VA 22313

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

By hand: Office of Petitions
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA

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

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

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1401 CITRUS CENTER
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ORLANDO, FL 32802

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MAR 1 8 2004
OFFICE OF PETITIONS

In re Application of :
Michael L. Suter, **Eitan Zehavi** :
and David Chiel : DECISION GRANTING PETITION
Application No. 10/384,189 : UNDER 37 CFR 1.47(a)
Filed: March 7, 2003 :
For: FRUIT HARVESTER INCLUDING TELESCOPING BOOM AND RELATED METHODS

This is in response to the renewed "Petition Under 37 CFR 1.47(a)," filed March 4, 2004.

The petition is **granted**.

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

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

Telephone inquiries regarding 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

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EITAN ZEHAVI
12 ALONIM STREET
KIRIAT TIVON 36000
ISRAEL

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OFFICE OF PETITIONS

In re Application of
Michael L. Suter, **Eitan Zehavi** and David Chiel
Application No. 10/384,189
Filed: March 7, 2003
For: FRUIT HARVESTER INCLUDING TELESCOPING BOOM AND RELATED METHODS

Dear EITAN ZEHAVI:

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

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

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

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

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1401 CITRUS CENTER
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OFFICE OF PETITIONS

In re Application of :
Michael L. Suter, Eitan Zehavi :
and **David Chiel** : DECISION GRANTING PETITION
Application No. 10/384,189 : UNDER 37 CFR 1.47(a)
Filed: March 7, 2003 :
For: FRUIT HARVESTER INCLUDING TELESCOPING BOOM AND RELATED METHODS

This is in response to the renewed "Petition Under 37 CFR 1.47(a)," filed March 4, 2004.

The petition is **granted**.

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

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

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

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

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

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DAVID CHIEL
21 GIVAT HAMOREH STREET
AFULA ILIT
ISRAEL

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MAR 19 2004

OFFICE OF PETITIONS

In re Application of
Michael L. Suter, Eitan Zehavi and **David Chiel**
Application No. 10/384,189
Filed: March 7, 2003
For: FRUIT HARVESTER INCLUDING TELESCOPING BOOM AND RELATED METHODS

Dear DAVID CHIEL:

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

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

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

Edward J. Tannouse
Petitions Attorney
Office of Petitions
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ROBERT W. STROZIER, P.L.L.C.
P.O. BOX 429
BELLAIRE, TX 77402-0429

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JAN 2 1 2009

OFFICE OF PETITIONS

In re Application of :
Jonathan Josephson et al :
Application No. 10/384,195 :
Filed: March 7, 2003 :
Attorney Docket No. 02001/01UTL :

DECISION ON PETITION

This is a decision on the petition, filed December 3, 2008, which is being treated as a petition under 37 CFR 1.8(b), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the Office action of April 17, 2008, which set a three (3) month shortened statutory period for reply. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, a reply was due on or before July 17, 2008.

Petitioner states that a timely reply was mailed via certificate of mailing on July 16, 2008, which includes the amendment/reply. Office records show copies of the July 17, 2008, (July 16, 2008 certificate of mailing) correspondence reply was timely received.

The $865 extension of time submitted on October 22, 2008 is unnecessity and is being credit to petitioner's deposit account.

The petition satisfies the above requirements of 37 CFR 1.8(b). Accordingly, the holding of abandonment for failure to timely file a reply to the Office action of April 17, 2008 is hereby withdrawn and the application restored to pending status.

This application is being referred to Technology Center AU 2179 for appropriate action in the normal course of business on the reply received with petition.

Irvin Dingle
Petition Examiner
Office of Petitions

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P.O. BOX 429
BELLAIRE, TX 77402-0429

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OFFICE OF PETITIONS

In re Application of :
Jonathan Josephson et al :
Application No. 10/384,195 :
Filed: March 7, 2003 :
Attorney Docket No. 02001/01UTL :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed March 25, 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** final agency action within the meaning of 5 U.S.C. § 704.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lack(s) item(s) (1).

The petition filed March 25, 2009 is not signed. This petition can not be treated until a proper signature is received.

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

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

By hand: Customer Service Window
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 the undersigned at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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OFFICE OF PETITIONS

ROBERT W. STROZIER, PLLC
PO BOX 429
BELLAIRE, TX 77402-0429

In re Application of	:	
Jonathan Josephson et al	:	
Application No. 10/384,195	:	ON PETITION
Filed: March 7, 2003	:	
Attorney Docket No. 02001/01UTL	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed April 23, 2009, to revive the above-identified application.

The petition is **GRANTED.**

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

This matter is being referred to Technology Center AU 2179 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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DAVID NICHOLS-ROY
LAVELLE INDUSTRIES, INC.
912 SOUTH ANDREASON DRIVE
SUITE 206
ESCONDIDO CA 92029

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OFFICE OF PETITIONS

In re Application of
David Nichols-Roy et al. :
Application No. 10/384,219 : ON PETITION
Filed: March 6, 2003 :
Attorney Docket Number: 2110-048 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 14, 2004, 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 March 9, 2004. A shortened statutory period of three months was set for replying to the non-Final Office Action. No extensions of time having been requested, this application became abandoned June 10, 2004. This decision precedes the mailing of the Notice of Abandonment.

Petitioner files the instant petition under 37 CFR 1.137(b). [1]

The petition fee in the amount of $685.00 has been debited from deposit account no. 50-2331 per the authorization found on the fee transmittal submitted with the petition. However, the revocation/power of attorney filed with the petition has been rejected

[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)).

because prosecution of an application may be conducted by (1) the applicant(s), (2) the assignee as provided for under 37 CFR 3.71(b), or (3) a person having a special equity interest recognized by the Commissioner, such as an assignee of part interest. If adverse interests exist, then prosecution control might be given to the equitable claimant. In this case, only one applicant/inventor has signed the revocation/power of attorney, and no assignment has been recorded, thus, a courtesy copy of this decision will be mailed to the address on the petition, but all future correspondence will be sent solely to the address of record.

This application is being forwarded to Technology Center 3751 for appropriate action on the amendment filed October 14, 2004.

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

cc:
JOSEPH S. HEINO, ESQ.
DAVIS & KUELTHAU, S.C.
111 E. KILBOURN
SUITE 1400
MILWAUKEE WI 53202-6613

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Paper No. 060705

PROTEUS PATENT PRACTICE LLC
P.O. BOX 1867
NEW HAVEN CT 06508

JUL 29 2005

In re Application of:	:	
Gentile *et al.*	:	
Serial No.: 10/384,236	:	DECISION ON REQUEST TO WITHDRAW
Filed: March 06, 2003	:	FROM RECORD
Attorney Docket No.: **403-02**	:	

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed April 08, 2005.

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

The request meets all the above stated requirements. The request was signed by Henry E. Auer on behalf of himself and all the attorneys/agents of record. There is at least thirty (30) days remaining 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.

The request is **APPROVED**.

There are no attorneys of record at this time.

All future communications from the Office will be directed to Edward Behm, at the below address, until otherwise notified by applicant.

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

Clayton E. LaBalle, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: Edward Behm
2500 One Liberty Place, 1650 Market Place
Philadelphia, PA 19103

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COMMISSIONER FOR PATENTS
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Paper No.

AGILIX CORPORATION
2 CHURCH STREET SOUTH
SUITE 401
NEW HAVEN, CT 06519

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SEP 29 2003

OFFICE OF PETITIONS

In re Application of
Gregory Mulhern et al
Application No. 10/384,238
Filed: March 6, 2003
Attorney Docket No. AGL-106US

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(6)

This is a decision on the petition under 37 CFR 1.78(a)(6), filed September 4, 2003, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of prior-filed provisional Application No. 60/361,715, filed March 6, 2002.

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 surcharge set forth in 37 CFR 1.17(t);

(2) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional; and

(3) the reference to the prior-filed provisional application supplied in an application data sheet (ADS)(37 CFR 1.76) or as an amendment in the first sentence of the specification following the title. *See* 35 U.S.C. 119(e) and 37 CFR 1.78(a)(5)(iii). The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending nonprovisional application was filed on March 6, 2003, within twelve months of the filing date of the prior-filed provisional application, Application No. 60/361,715, which was filed on March 6, 2002, for which priority is claimed. A reference to the prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title.

The instant nonprovisional application was filed after November 29, 2000, and the claim for priority herein is submitted after expiration of the period specified in 37 CFR 1.78(a)(5)(ii). Also, the reference to the prior-filed provisional application was submitted during the pendency of the nonprovisional application for which the benefit is sought. *See* 35 U.S.C. §119(e). Accordingly, having found that the instant petition satisfies the conditions of 37 CFR 1.78(a)(6) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. §119(e), the petition to accept an unintentionally delayed claim of benefit to prior-filed provisional Application No. 60/361,715 is granted.

The granting of the petition to accept the delayed benefit claim to the prior application under 37 CFR 1.78(a)(6) should not be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior application. In order for the instant application to be entitled to the benefit of the prior application, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

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

Any inquiries concerning this decision may be directed to Karen Creasy at (703) 305-8859.

The application is being forwarded to Technology Center AU 1772 for processing the amendment submitted September 4, 2003 and for consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to prior-filed provisional Application No. 60/361,715, filed March 6, 2002.

Frances Hicks

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

ATTACHMENT: Corrected Filing Receipt

OIPE JC67
SEP 0 4 2003
PATENT & TRADEMARK OFFICE

AGENT DOCKET #.: AGL-106US
PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of	)	
	)	
Gregory Mulhern, et al.,	)	
	)	
Serial No. 10/384,238	)	Group Art Unit: Unassigned
	)	
Filed: March 6, 2003	)	Examiner: Unassigned
	)	
For: "Patterned Supports for Testing, Evaluating And Calibrating Detection Devices"	)	

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Agilix Corporation
36241
PATENT TRADEMARK OFFICE

PETITION FOR ACCEPTANCE OF AN UNINTENTIONALLY DELAYED CLAIM FOR PRIORITY UNDER 35 U.S.C. 119(e)

Sir:

In accordance with 37 C.F.R. §1.78(a)(6), a petition for the acceptance of an unintentionally delayed claim for priority under 35 U.S.C. 119(e), please find enclosed herewith:

1. An amendment by substitute specification incorporating the reference to the prior-filed provisional application.
2. The surcharge set forth in § 1.17(t), made payable by credit card and authorized on form PTO-2038
3. Statement that the delay was unintentional

It is respectfully submitted that the submission of these documents fulfills the requirements of §1.78(a)(6) and Applicants respectfully request acceptance of this petition.

Should you have any questions or require further assistance, please contact the Applicants or the Applicants' agent at the number below.

09/08/2003 AWONDAF1 00000044 10384238
01 FC:1454 1300.00 OP

Respectfully submitted,

Gisela F. Carlson
Reg. No. 47,562

Date: Sept 4, 2003
(203) 772-4169
Agilix Corporation

36241
PATENT TRADEMARK OFFICE

OIPE JC67
SEP 04 2003
PATENT & TRADEMARK OFFICE

AGENT DOCKET #.: AGL-106US
PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

RECEIVED
SEP 09 2003
OFFICE OF PETITIONS

In re Application of	)	
	)	
Gregory Mulhern, et al.,	)	
	)	
Serial No. 10/384,238	)	Group Art Unit: Unassigned
	)	
Filed: March 6, 2003	)	Examiner: Unassigned
	)	
For: "Patterned Supports for Testing, Evaluating And Calibrating Detection Devices"	)	

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Agilix Corporation

36241
PATENT TRADEMARK OFFICE

STATEMENT

Sir:

Applicants respectfully submit that the delay in filing the priority claim to US Provisional Application 60/361,715 filed on March 6, 2002 was unintentional. It was not realized until August 27, 2003 that the priority claim had been inadvertently left off the present US Application, at which time an amendment by substitute specification was submitted in hopes of correcting such error.

After further research, it was realized that the claim for priority must be made within 4 months or after such time with a petition filed under 37 C.F.R. 1.78(a)(6). Thus, Applicants hereby submit such petition with the appropriate fees and statements. Applicants respectfully submit that this delay in filing the petition and adding the claim to priority was truly unintentional and that Applicants readily attempted to correct the error as soon as it was realized.

It is therefore respectfully requested that the Petition for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. 119(e) be accepted.

Should you have any questions or require further assistance, please contact the Applicants or the Applicants' agent at the number below.

Respectfully submitted,

Gisela F. Carlson
Reg. No. 47,562

Date: Sept. 4, 2003
(203) 772-4169
Agilix Corporation

36241
PATENT TRADEMARK OFFICE

9-5-3

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OIPE JC87
SEP 04 2003
PATENT & TRADEMARK OFFICE

AGENT DOCKET #.: AGL-106US
PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

RECEIVED
SEP 09 2003
OFFICE OF PETITIONS

In re Application of	)	
	)	
Gregory Mulhern, et al.,	)	
	)	
Serial No. 10/384,238	)	Group Art Unit: Unassigned
	)	
Filed: March 6, 2003	)	Examiner: Unassigned
	)	
For: "Patterned Supports for Testing, Evaluating And Calibrating Detection Devices"	)	

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Agilix Corporation
36241
PATENT TRADEMARK OFFICE

SURCHARGE FOR FILING A PETITION FOR THE ACCEPTANCE OF AN UNINTENTIONALLY DELAYED CLAIM FOR PRIORITY UNDER 35 U.S.C. 119

Sir:

Pursuant to 37 C.F.R. §1.17(t), Applicants hereby submit payment of $1,300 for the filing of a petition for the acceptance of an unintentionally delayed claim for priority under 35 U.S.C. 119(e). Payment is in the form of credit card and Applicants have attached form PTO-2038 authorizing such payment.

It is believed that no additional fees are due, however the Commissioner is hereby authorized to charge any additional fees that may be required, or credit any overpayment to the credit card authorized in form PTO-2038.

Should you have any questions or require further assistance, please contact the Applicants or the Applicants' agent at the number below.

Respectfully submitted,

Gisela F. Carlson
Reg. No. 47,562

Date Sept. 4, 2003
(203) 772-4169
Agilix Corporation
36241
PATENT TRADEMARK OFFICE

OIPE JC67
SEP 0 4 2003
PATENT & TRADEMARK OFFICE

AGENT DOCKET #.: AGL-106US
PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

RECEIVED
SEP 0 9 2003
OFFICE OF PETITIONS

In re Application of	)	
	)	
Gregory Mulhern, et al.,	)	
	)	
Serial No. 10/384,238	)	Group Art Unit: Unassigned
	)	
Filed: March 6, 2003	)	Examiner: Unassigned
	)	
For: "Patterned Supports for Testing, Evaluating And Calibrating Detection Devices"	)	

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Agilix Corporation
36241
PATENT TRADEMARK OFFICE

EXPRESS MAIL CERTIFICATION
UNDER 37 C.F.R. §1.10

I hereby certify that the following items are being deposited with the Untied States Postal Service as Express Mail No. EU912939143 in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on September 4, 2003.

1. Coversheet for Petition for the Acceptance of an Unintentionally Delayed Claim for Priority under 35 U.S.C. 119(e) (2 pgs)
2. Amendment by substitute specification (2 pgs)
3. Clean version of substitute specification (31 pgs)
4. Marked up version of substitute specification (31 pgs)
5. Payment of surcharge set forth in 37 CFR §1.17(t) (1 pg)
6. Form PTO-2038 – Credit Card Authorization (1 pg)
7. Statement that delay was unintentional (2 pgs)

Respectfully submitted,

Gisela F. Carlson
Reg. No. 47,562

Date: Sept. 4, 2003
(203) 772-4169
Agilix Corporation
36241
PATENT 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

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

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JUL 27 2007

OFFICE OF PETITIONS

In re Application of	:	
Steven E. Lentsch, et al.	:	
Application No. 10/384,251	:	DECISION ON PETITION
Filed: March 7, 2003	:	TO WITHDRAW
Attorney Docket No. 163.1141USC5	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed January 22, 2007.

The request is **APPROVED**.

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

The request was signed by Sarah M. Monfeldt on behalf of herself.

All other attorneys/agents associated with this application remain of record.

The correspondence address of record remains unchanged.

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

JACKSON WALKER LLP
2435 NORTH CENTRAL EXPRESSWAY
SUITE 600
RICHARDSON, TX 75080

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DEC 15 2004

OFFICE OF PETITIONS

In re Application of	:	
Ejaz Afzal et al	:	
Application No. 10/384,263	:	NOTICE
Filed: March 7, 2003	:	
Attorney Docket No. 101950-00117	:	

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

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

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

This application no longer qualifies for small entity status. Accordingly, all future fees must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3218.

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

Paper No.

Mark J. Pandiscio
Pandiscio & Pandiscio, P.C.
470 Totten Pond Road
Waltham, MA 02451-1914

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MAY 07 2004
OFFICE OF PETITIONS

In re Application of	:	
Babu Narayanan, et al.	:	
Application No. 10/384,270	:	ON PETITION
Filed: March 7, 2003	:	
Attorney Docket No. COREXROS-53	:	

This is in response to the "Petition Under 37 CFR 1.47(a), filed October 9, 2003.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 CFR 1.136(a).

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Applicant lacks item (1) set forth above.

Petitioner asserts that the nonsigning inventor, Robert Ward, cannot be located to sign the declaration for the application. However, petitioner has not provided any evidence to support such an assertion. 37 CFR 1.47(a) in pertinent part states:

> "...The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, the fee set forth in § 1.17(h), and the last known address of the nonsigning inventor."

MPEP 409.03(d), in pertinent part, also states:

> "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...
> ...Copies of documentary evidence such as internet searches, certified mail 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."

In view of the above, petitioner must supply evidence to support the allegations that the nonsigning inventor cannot be reached. Furthermore, petitioner must send a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor. It is noted that in the instant petition, petitioner only states that the "declaration and power of attorney" document was sent to Mr. Ward.

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
Room 1B03
Arlington, VA 22202

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

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

Marianne E. Morgan

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

John C. Gorecki, Esq.
165 Harvard Street
Newton, MA 02460

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JUL 11 2005

OFFICE OF PETITIONS

In re Application of	:	
Babu Narayanan, et al.	:	DECISION NOTING JOINDER OF
Application No. 10/384,270	:	INVENTOR AND PETITION
Filed: March 7, 2003	:	UNDER 37 CFR 1.47(a) MOOT
Attorney Docket No. 15324XRUS02U	:	

This is a corrected decision on the petition filed October 9, 2003, under 37 CFR 1.47(a).

A petition requesting Rule 47 status based on the failure to reach one of the joint inventors was filed on October 9, 2003. The petition was dismissed on May 7, 2004. However, papers filed on December 18, 2003 included a Declaration signed by a previously non-signing inventor, Robert Ward, in compliance with 37 CFR 1.63. Unfortunately, this Office received the signed Declaration after the decision on the petition was rendered. In view thereof, the previous decision is hereby vacated.

The petition under § 1.47 is **DISMISSED AS MOOT**.

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

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

Telephone inquiries should be directed to the undersigned at (571) 272-3223.

Marianne E. Jenkins
Petitions Examiner
Office of Petitions

cc: John C. Gorecki, Esq.
180 Hemlock Hill Road
Carlisle, MA 01741

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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WILSON & HAM
2530 BERRYESSA ROAD
PMB: 348
SAN JOSE CA 95132

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AUG 0 6 2007

OFFICE OF PETITIONS

ON PETITION

In re Application of
John Rajesh
Application No. 10/384,272
Filed: March 7, 2003
Attorney Docket No. **RSTN-030**

This is a decision on the petition filed July 9, 2007 under 37 CFR 1.137(b), [1] to revive the above-identified application.

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

This application became abandoned May 15, 2007 for failure to timely pay the issue fee on or before May 14, 2007. Accordingly, the Notice of Abandonment was mailed June 22, 2007 after the filing of the instant petition.

The issue fee, publication fee and petition fee have all been applied.

All other requirements of 37 CFR 1.137(b) having now been met, this application file is being forwarded to the Publishing Division to be processed into a patent.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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WILLIAM S. FROMMER
FROMMER LAWRENCE & HAUG LLP
745 FIFTH AVENUE
NEW YORK, NY 10151

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OCT 19 2006

OFFICE OF PETITIONS

In re Application of :
Ikuo Someya et al :
Application No. 10/384,289 : ON PETITION
Filed: March 7, 2003 :
Attorney Docket No. 450100-04408

This is a decision on the petition filed, October 10, 2006 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on September 22, 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 2624 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

Date : October 19, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner for Patent Examination Policy

SUBJECT : Withdrawal from Issue of Application No. 10/384,289

Applicant(s) : Ikuo Someya et al
Application No. : 10/384,289
Filed : March 7, 2003

The above-identified application has been assigned Patent No. 7,130,482 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. 7,130,482 to Ikuo Someya of Japan for IMAGE PROCESSING APPARATUS appearing in the Official Gazette of October 31, 2006 should be deleted since no patent was granted."

Irvin Dingle
Petitions Examiner
Office of Petitions

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
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MAILED

MAR 3 0 2010

OFFICE OF PETITIONS

MANUEL MOREYRA
2718 NE 195TH PLACE
SEATTLE WA 98155

In re Patent No. 6,969,385	:	
Issue Date: November 29, 2005	:	
Application No. 10/384,298	:	ON PETITION
Filed: March 6, 2003	:	
Title: Wrist With Decoupled Motion Transmission	:	

This is a decision on the petition under 37 CFR 1.378(c), filed January 28, 2010, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **DISMISSED**.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within TWO (2) MONTHS from the mail date of this decision. No extension of this two-month time limit can be granted under 37 CFR 1.136(a) or (b). This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Any petition for reconsideration of this decision must be accompanied by the petition fee of $400 as set forth in 37 CFR 1.17(f). The petition for reconsideration must include the lacking item(s) noted below, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Commissioner.

A petition to accept the unintentionally delayed payment of a maintenance fee under 35 U.S.C. § 41(c) and 37 CFR 1.378(c) must be accompanied by: (1) a statement that the delay was unintentional; (2) payment of the appropriate maintenance fee, unless previously submitted; (3) payment of the surcharge set forth in 37 CFR 1.20(i)(2).

This petition lacks item (3) of the above items.

With regards to item (3), petitioner has submitted $65.00 towards the required $1,640.00 surcharge fee, thus creating a $1,585.00 shortage.

Further, as stated above, a $400.00 petition fee is also required for any petition for reconsideration, bringing the total to $1,985.00.

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 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) 272-7751.

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 1450
Alexandria, VA 22313-1450
www.uspto.gov

MANUEL MOREYRA
2718 NE 195TH PLACE
SEATTLE WA 98155

MAILED

JUL 07 2010

OFFICE OF PETITIONS

In re Patent No. 6,969,385	:	
Issue Date: November 29, 2005	:	
Application No. 10/384,298	:	DECISION ON PETITION
Filed: March 6, 2003	:	
Title: Wrist With Decoupled Motion Transmission	:	

This is a decision on the renewed petition under 37 CFR 1.378(c), filed May 19, 2010 to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on November 30, 2009 for failure to pay the three and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

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

Additionally, petitioner has been charged an overage amount of $10.00 which will be refunded to petitioner via treasury check in due course.

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

Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Paper No. 4

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JUL 22 2003

OFFICE OF PETITIONS

Therox, Inc.
2400 Michelson Drive
Irvine, CA 92612

In re Application of Patterson et al. Application No. 10/384,301 Filed: March 7, 2003 Attorney Docket No. PA065-US	DECISION GRANTING PETITION

This is a decision on the petition filed June 23, 2003, requesting that the above-identified application be accorded a filing date of March 7, 2003, with pages 53 and 66 of the specification as part of the original disclosure.

On March 7, 2003, applicants filed the above-identified application. On June 10, 2003, the Office of Initial Patent Examination mailed a Notice of Omitted Item(s), stating that the application had been accorded a filing date of March 7, 2003, and advising applicants that pages 53 and 66 of the specification appeared to have been omitted.

In response, on June 23, 2003, applicants filed, inter alia, the present petition, a copy of applicants' postcard receipt acknowledging receipt of 1 page of abstract, 12 pages of claim, and 56 pages of specification, and authorized payment of the petition fee. Additionally, applicants submitted a copy of pages 53 and 66 of the specification with the present petition.

Upon review of the record, pages 53 and 66 of the specification, deposited on March 7, 2003, have not been located among the application papers. However, the evidence is convincing that the application papers deposited on March 7, 2003, included pages 53 and 66, which were subsequently misplaced in the United States Patent and Trademark Office. Therefore, the application, including pages 53 and 66 of the specification, was complete on filing and will be granted a filing date of March 7, 2003.

Accordingly, the petition is granted. The Notice of Omitted Items was sent in error and is hereby vacated. Accordingly, the $130.00 petition fee is unnecessary and will be credited to Deposit Account No. 50-1769.

The application file is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of March 7, 2003, using pages 55 and 66 of specification submitted on petition, and for the mailing of a corrected filing receipt.

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
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Paper No.

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

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FEB 21 2006

OFFICE OF PETITIONS

In re Application of :
Soga et al. : DECISION ON PETITION
Application No. 10/384,308 :
Filed: March 7, 2003 :
Atty Docket No.16869P-071700US:

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

The above-identified application became abandoned for failure to timely file a reply to the final Office action mailed June 20, 2005. The Office action set a three (3) month shortened statutory period for reply, with extensions of time obtainable under 37 CFR 1.136(a). No reply having been received and no extensions of time obtained, the above-identified application became abandoned on September 21, 2005. The filing of the instant petition precedes the mailing of a courtesy Notice of Abandonment.

With the instant petition, petitioner submitted the reply in the form of a continuation application including an Information Disclosure Statement (IDS), paid the petition fee, and made the required statement of unintentional delay. Petitioner seeks revival for continuity purposes. (A continuation application and an IDS are not proper responses to a final rejection; as such, revival is solely for continuity purposes).

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

The above-identified application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the application, the application is again abandoned in favor of the continuation application (No. 11/338,529), received January 23, 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

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TOWNSEND AND TOWNSEND AND CREW, LLP
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SAN FRANCISCO CA 94111-3834

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OFFICE OF PETITIONS

In re Application of
Hideaki Tanaka et al.
Application No. 10/384,310
Filing Date: March 6, 2003
Attorney Docket No. : 16869N-075600US
Title: MAGNETIC HEAD SLIDER AND METHOD OF MANUFACTURING THE SAME

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.78(a)(3), filed February 3, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional application number 10/024,962, filed on December 18, 2001, along with a supplemental Application Data Sheet (ADS) which indicates that this application is a continuation-in-part of application number 10/024,962.

The petition is **GRANTED**.

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

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

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

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

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

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

This matter is being referred to Technology Center Art Unit 3723 for appropriate action on the amendment filed February 3, 2005, including consideration by the Examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional application.

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding this decision should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
United States Patent and Trademark Office

ATTACHMENT: Corrected Filing Receipt

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OFFICE OF PETITIONS

LERNER AND GREENBERG, P.A.
Post Office Box 2480
Hollywood FL 33022-2480

In re Application of
Hübner & Kripesh
Application No.: 10/384,311
Filed: March 7, 2003
Attorney Docket No.: MAS-FIN-152

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed July 7, 2003 (certificate mailing date July 1, 2003).

The petition is **DISMISSED**.

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

The above-identified application was filed on March 7, 2003 without an executed oath or declaration. Accordingly, on May 2, 2003, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration and a surcharge for its late filing.

In response, on July 7, 2003 (certificate mailing date July 1, 2003), a declaration executed by 1 of 2 joint inventors, the surcharge, the petition fee, and the instant petition were filed. A declaration of facts of Martin Schweiger accompanies the petition. Mr. Schweiger explains that a copy of the application and declaration for the above-identified application was mailed to non-signing inventor Vaidyanathan Kripesh at his last known address, but the package was returned as undeliverable.

A grantable petition under 37 CFR 1.47(a) requires

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

This petition lacks item (1) above.

As to item (1), applicant has failed to establish that Mr. Kripesh cannot be located.

A showing of **diligence** is critical in obtaining Rule 47 status when an inventor cannot be located or reached. One returned mailing does not meet the required level of diligence that must be shown in order to obtain Rule 47 status.

Petitioner should engage in further efforts to locate Mr. Kripesh. The following is a list of evidentiary sources that are commonly relied upon to prove inability to locate an inventor: searches of Internet databases; inquiries of local telephone directories; telegrams; and documented inquiries of last known employers. Every listed type of search need not be done. However, a diligent effort to find the inventor must be made.

Documentary evidence that supports a finding that the non-signing inventor could not be found or reached should be made part of any affidavits or declarations that fully describe the exact facts which are relied on to establish that a diligent effort was made to locate the non-signing inventor. Printed computer records would suffice.

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. It is important that the affidavit or declaration contain statements of fact as opposed to conclusions.

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

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

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

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

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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COMMISSIONER FOR PATENTS
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LERNER AND GREENBERG, P.A.
Post Office Box 2480
Hollywood FL 33022-2480

In re Application of
Hubner & Kripesh
Application No.: 10/384,311
Filed: March 7, 2003
Attorney Docket No.: MAS-FIN-152

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

Papers filed on September 8, 2003 (certificate of mailing date September 4, 2003) in reply to "Decision Refusing Status Under 37 CFR 1.47(a)" mailed on July 31, 2003, included a Declaration signed by the previously non-signing inventor, Vaidyanathan Kripesh, in compliance with 37 CFR 1.63.

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

This application will be returned 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

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CNH Intellectual Property Law Dept.
Case New Holland Inc.
PO Box 1895, MS 641
New Holland, PA 17557

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OFFICE OF PETITIONS

ON PETITION

In re Application of
Gabriele Villa
Application No. 10/384,316
Filed: March 6, 2003
Attorney Docket No. 17293

This is a decision on the petition under 37 CFR 1.137(b), filed November 18, 2003, to revive the above-identified application.

The petition is granted.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed May 2, 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 3, 2003.

The declaration filed March 6, 2003 taken in combination with the declaration filed November 18, 2003 will be accepted as complying with 37 CFR 1.63.

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

Telephone inquiries concerning this decision should be directed to Latrice Bond at (703) 308-6911.

Latrice Bond

Latrice Bond
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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TECHNOLOGY CENTER 2600

COWAN, LIEBOWITZ &LATMAN, P.C.
1133 Avenue of the Americas
New York, N.Y. 10036

In re Application of
Tomohiro Gomi
Application No. 10/384319
Filed: March 7, 2003
Attorney Docket No. B422-223 (25813.230)

DECISION ON REQUEST TO PARTICIPATE IN PATENT PROSECUTION HIGHWAY PILOT PROGRAM AND PETITION TO MAKE SPECIAL UNDER 37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) pilot program and the petition under 37 CFR 1.102(d), filed November 10, 2006, to make the above-identified application special.

The request and petition are **GRANTED**.

A grantable request to participate in the PPH pilot program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of all the office actions from each of the JPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;
(6) Applicant must submit an IDS listing the documents cited by the JPO examiner in the JPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and
(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH pilot program and petition comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to John Peng at 571-272-7272.

All other inquiries concerning the examination or status of the application should be directed to Patent Application Information Retrieval (PAIR) system.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

John Peng
TC 2600
Quality Assurance Specialist

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MORGAN & FINNEGAN, L.L.P.
3 WORLD FINANCIAL CENTER
NEW YORK NY 10281-2101

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OFFICE OF PETITIONS

In re Application of	:	
Ikegami et al.	:	
Application No. 10/384,334	:	ON PETITION
Filed: March 6, 2003	:	
Attorney Docket No. 1232-4988	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed March 1, 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 payment of the issue and publication fees; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

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

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions

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BRADFORD GREEN BUILDING 5
755 MAIN STREET, P O BOX 224
MONROE CT 06468

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OFFICE OF PETITIONS

In re Application of
KOSKELAINEN et al.
Application No. 10/384,359
Filed: March 7, 2003
Attorney Docket No. 944-004.023

DECISION
ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed August 5, 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 final Office action mailed January 5, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned at midnight on April 5, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137 (b) in that (1) the reply in the form of a Request for Continued Examination (RCE), an Amendment, and the requisite fee of $790; (2) the petition fee of $1500; and (3) the required statement of unintentional delay have been received. Accordingly, the RCE, the Amendment and the filing fee are accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Denise Pothier at (571) 272-4787.

The application matter is being forwarded to Technology Center AU 2665 for further processing.

Brian Hearn, for
Frances Hicks
Petitions Examiner
Office of Petitions

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2200 WELLS FARGO CENTER
MINNEAPOLIS MN 55402

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OFFICE OF PETITIONS

In re Patent No. 7,069,925 :
Issued: July 4, 2006 :
Application No. 10/384,376 : ON PETITION
Filed: March 6, 2003 :
Attorney Docket Number: 77012-325774 :

This is a decision on the petition filed June 22, 2007, under 37 CFR 3.81(b) [1], to correct the assignee's name on the front of the Patent.

The petition is **GRANTED**.

Petitioner states that the failure to include the name of the assignee on the Fee(s) Transmittal form PTOL-85(b) filed May 8, 2007 was inadvertent. Accordingly, petitioner requests that a certificate of correction be issued to reflect the correct name of the assignee on the front page of the Letters Patent.

37 CFR 3.81(b), effective June 25, 2004, reads:

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

A request for a certificate of correction was filed September 14, 2006 and was dismissed in a decision mailed October 30, 2006 since the request was not accompanied by a petition under 37 CFR 3.81.

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[1] *See* Official Gazette of June 22, 2004

Office assignment records however, reflect that HNI TECHNOLOGIES INC. is the assignee of record. Accordingly, as the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to issue.

The petition fee in the amount of $130.00 has been charged to deposit account no. 06-0029 and the fee for the certificate of correction in the amount of $100.00 has been charged to petitioner's credit card.

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

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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CHICAGO, IL 60602

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OFFICE OF PETITIONS

In re Application of	:	
JOHNSON et al	:	
Application No.: 10/384,381	:	DECISION ON PETITION
Filing Date: March 7, 2003	:	UNDER 37 CFR 1.137(B)
Attorney Docket No.: 3517	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 19, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed February 2, 2006, which set a statutory period for reply of three (3) months. Accordingly, by operation of law, the above-identified application became abandoned on May 3, 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) 272-3303.

Bryan Lin

Bryan Lin
Legal Examiner
Office of the Deputy Commissioner
for Patent Examination Policy

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JUL - 1 2005

In re Application of John B. Goodman Serial No. 10/384,382 Filed: March 7, 2003 For: FUEL STORAGE CONTAINER FOR A FUEL CELL	: : : : : :	DECISION ON PETITION TO MAKE SPECIAL

Applicant's petition, filed October 22, 2004, seeks to have this application made special based upon the Energy Conservation Program.

The petition is GRANTED.

The petition has been reviewed and is found to be in compliance with the requirements for special status as set forth in Section 708.02(VI) of the Manual of Patent Examining Procedure (MPEP).

PETITION GRANTED.

Richard A. Bertsch, Director
Technology Center 3700

Douglas J. Christensen
Patterson, Thuente, Skaar & Christensen
80 South 8th Street, 4800 IDS Center
Minneapolis, MN 55402-2100

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JAN - 5 2006

NEEDLE & ROSENBERG, PC
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999 PEACHTREE STREET
ATLANTA, GA 30309-3915

In re Application of	:
Magnus Pfahl et al	:
Serial No.: 10/384,391	: PETITION DECISION
Filed: March 6, 2003	:
Attorney Docket No.: 13099.0021U2	:

This is in response to the petition under 37 CFR 1.144, filed September 27, 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 claims 1-53. In a first Office action, mailed February 9, 2005, the examiner set forth a 3 way restriction requirement, as follows:

Group I – Claims 1-37 and 49-53, drawn to products;
Group II – Claims 38-46, drawn to methods of use of the compounds of claim1;
Group III – Claims 47-48, drawn to a process of preparing the compounds of claim 1.

The examiner also required election of a single compound if Group I was elected (i.e. – election of species). The examiner in conjunction therewith required applicant to identify the value of each variable in the structure of Formula I. The examiner further stated that "Examination will then proceed on the elected compound AND the entire scope of the invention encompassing the elected compound as defined by common classification." Also "that the requirement will not be made final until such time as applicant is informed of the full scope of the compounds along with the process of using or making said compound." Further "All compounds falling outside the class(es) and subclass(es) of the elected compound...will be directed to nonelected subject matter and will be withdrawn..." The examiner also advised of rejoinder of process claims having the same scope when product claims were found allowable.

Applicants replied on May 5, 2005, adding claims 54-75 to the application, suggesting which Groups they fell into and electing Group I with traverse. Applicants further identified a species from Claim 52 in response to the election of species requirement. Applicants traversed the

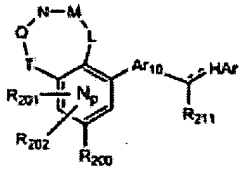
requirement for several reasons, particularly the examiner's statements noted above and presumed that the examiner would proceed with examination under the guidelines of M.P.E.P. 803.02. Applicants also objected to the examiner's intent to impose additional restriction requirements on applicants in view of the statement noted above.

A new examiner mailed a first action on the merits to applicants on July 27, 2005, indicating claims 38-48 and 71-75 (Groups II and III) as withdrawn (but failing to indicate the status of the other claims on the Summary page). The claims within each Group were modified in accordance with applicants' suggestions. The examiner acknowledged applicants' election of species and then stated that the claims lack unity of invention under M.P.E.P. 803.02 in that the claims "lack a significant structural element...that defines a contribution over the prior art." The examiner defined a bicyclic phenyl-containing moiety as the "basic backbone" or common structure and that the substituents vary widely resulting in vastly different compounds. The examiner made the requirement Final. The examiner then defined the scope of the invention to be examined based on Formula I wherein Ar_{10} is optionally substituted aryl and HAr is thiazolidine-dione, all other variables being as defined. Claims 1-37 and 49-70 were then objected to as containing non-elected subject matter which the examiner required be canceled. Claims 1-37 and 49-70 were also rejected for obvious double patenting.

This petition was filed on September 27, 2005, and traverses the finality of the restriction requirement as in error based on court decisions, such as In re Weber and M.P.E.P. 803.02 and 809.02(a). A reply to the Office action was received October 31, 2005.

DISCUSSION

An analysis of applicants' claims shows that all claims are directed to compounds having Formula I



Formula I is, as defined by the examiner, a fused bicyclic compound having a phenyl (benzene) ring fused with a second ring of 5, 6 or 7 members formed by L, M, N, Q and T, up to two of which may be absent, and which may be any one of C, O, S or N (with appropriate substitution to satisfy valences). (Eleven representative structures are set forth in Claim 3.) As noted by the examiner this appears to be the basic backbone structure of the compounds. There is nothing in M.P.E.P. 803.02 which requires that this structure make a contribution over the prior art (i.e. – be novel). Such may be required in applications filed under 35 U.S.C. 371, but not in those filed under 35 U.S.C. 111. The requirements for a proper Markush Group are that there be a structure common to all compounds and that the structure provide the activity or functionality claimed. Here, no functionality is set forth in the compound claims, but the specification describes a proper activity or functionality of the compounds within the grouping, thus satisfying the second requirement for a proper Markush group.

Applicants have fulfilled the requirements of the examiner's requirement for restriction and election of a single disclosed and claimed species. The examiner's action following the election of defining the scope of the invention to be examined, as set forth in the examiner's statement in the action requiring restriction and in the subsequent action on the merits, is improper and in conflict with numerous court cases not the least of which are *In re Weber, In re Hozumi* and *In re Haas*. Applicants have an inherent right to define that which they desire to claim as their invention in whatever terms they deem appropriate. The examiner's election to divide the claims into three groups according to product, process of making and process of using was proper coupled with the rejoinder notice. However, the examiner's election to not divide the compounds within the Markush group according to varying structure (e.g. – see claim 3), but to only require an election of species, requires the examiner to follow M.P.E.P. 803.02 and examine the identified species for patentability and to expand the examination to additional related species if the first is not found in the prior art. If none of the related species is found in the prior art then the entire Markush group is considered patentable. No limitation of the group may be imposed absent prior art being found which renders one or more species within the Markush group unpatentable; and then it is only applicants who may modify the group to avoid the prior art.

In summary, the examiner's restriction requirement, as set forth, is proper. The examiner's determination of the scope of the invention to be examined based on the species elected is improper and is withdrawn.

DECISION

The petition is **GRANTED** to the extent indicated above.

The application will be forwarded to the examiner for consideration of applicants' reply filed October 31, 2005, and further action not inconsistent with the above decision.

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

George C. Elliott

George C. Elliott
Director, Technology Center 1600

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MINNEAPOLIS, MN 55402-0903

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In re Application of
Richard Ticktin
Application No. 10/384,401
Filed: March 6, 2003
Attorney Docket No. SLBS-002

ON PETITION

This is a decision on the petition filed March 8, 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 under 37 CFR 1.137(a) or 1.137(b).

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

This application became abandoned September 2, 2005 for failure to file a proper and timely response to the non-Final Office Action mailed August 1, 2005 which set a one month period for response. Accordingly, a Notice of Abandonment was mailed February 8, 2006.

The file record discloses that the Notice of Allowance was mailed to what was believed to be the address of record. However, petitioner contends that it was not received. Petitioner submits proof of a request to withdraw as attorney, which was filed May 26, 2005, prior to the mailing of the non-Final Office Action mailed August 1, 2005. The May 26, 2005 also included an address change. A review of the file record reveals that the new address for all future correspondences to be used after the acceptance of the withdrawal, provided by the prior attorneys of record, was SYNERGYLABS
333 SE 14TH AVENUE, FT. LAUDERDALE, FL 33316.

In view of petitioner's arguments and in view of the fact that the Notice of Acceptance of Power of Attorney, mailed July 13, 2005, in response to the request to withdraw as attorney was returned as undeliverable, the prior attorneys of record filed an incorrect address. The non-Final Office Action was properly addressed, based on the information found in the file, and thus Synergylabs' failure to receive the office action was not due to an error on the part of the agency. Therein, the holding of abandonment cannot be withdrawn.

SHOWING OF UNAVOIDABLE DELAY

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and

> requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[1]

The showing of record is inadequate to establish unavoidable delay within the meaning of 37 CFR 1.137(a). Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure or mail, telegraph, telefacsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[2]

Since petitioners have failed to establish that the delay in responding to the non-Final Office Action was unavoidable, the petition cannot be granted under 37 CFR 1.137(a).

Instead, and in view of the petition alternatively pleading under the unintentional standard and authorizing charges from deposit account 13-2725, the petition fee in the amount of $750.00 has been charged.

Furthermore, since the petition was treated under the unavoidable standard the petition fee paid, the petition fee in the amount of $250 has been charged to deposit account no. 13-2725 and cannot be refunded.

The response to the restriction requirement filed March 8, 2006 will be referred to Technology Center 1655 for further processing.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

[1] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

[2] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

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

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JUN 29 2006
OFFICE OF PETITIONS

In re Application of
Richard Ticktin
Application No. 10/384,401
Filed: March 6, 2003
Attorney Docket No. SLBS-002

ON PETITION

This is a decision on the petition filed June 14, 2006, to revive the above-identified application under 37 CFR 1.137(b).

The petition under 37 CFR 1.137(b) is **DISMISSED** as involving moot issues.

This application became abandoned September 2, 2005 for failure to file a proper and timely response to the non-Final Office Action mailed August 1, 2005 which set a one month period for response. Accordingly, a Notice of Abandonment was mailed February 8, 2006. A petition filed March 8, 2006 under 37 CFR 1.181 and alternatively under 37 CFR 1.137(a) and 1.137(b) was decided in a decision mailed April 13, 2006.

The decision noted that the non-Final Office Action was properly addressed, based on the information found in the file, and thus Synergylabs' failure to receive the office action was not due to an error on the part of the agency. Therein, the holding of abandonment was not withdrawn. Additionally, the showing of record was inadequate to establish unavoidable delay within the meaning of 37 CFR 1.137(a). Since petitioners failed to establish that the delay in responding to the non-Final Office Action was unavoidable, the petition also could not be granted under 37 CFR 1.137(a).

Instead, however, and in view of the petition alternatively pleading under the unintentional standard and authorizing charges from deposit account 13-2725, the petition fee in the amount of $750.00 was charged and the petition was granted under 37 CFR 1.137(b). All fees were properly charged and the response to the restriction requirement filed March 8, 2006 was referred to Technology Center 1655 for further processing.

Treatment of the instant petition is therefore unnecessary since the petition under 37 CFR 1.137(b) was granted April 13, 2006 and the application revived. The petition fee in the amount of $750.00 filed with the instant petition will be refunded to deposit account no. 13-2725.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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AUG 13 2007

OFFICE OF PETITIONS

In re Application of

Richard Ticktin
Application No. 10/384,401
Filed: March 6, 2003
Attorney Docket No. SLBS-002

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed March 21, 2007.

The request is **APPROVED**.

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

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

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number). The power of attorney filed on June 14, 2006 does not include a proper chain of title or the reel and frame number.

Applicant is reminded that there is no attorney of record at this time.

There is an outstanding Office action mailed July 13, 2007 that requires a reply from the applicant.

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: SYNERGY LABS, INC.
3333 SE 14TH AVENUE
FORT LAUDERDALE, FL 33316

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OFFICE OF PETITIONS

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

In re Application of

Richard Ticktin
Application No. 10/384,401
Filed: March 6, 2003
Attorney Docket No. SLBS-002

DECISION ON REQUEST FOR REVOCATION OF POWER OF ATTORNEY

This is a decision on the Request to Revoke the attorney or agent of record under 37 C.F.R. § 1.36(a), filed December 14, 2005.

The request is **NOT APPROVED**.

A power of attorney, pursuant to § 1.32(b), may be revoked at any stage in the proceeding of a case by an applicant for patent (§ 1.41(b)) or an assignee of the entire interest of the applicant under § 3.71(b). Fewer than all of the applicants (or by fewer than the assignee of the entire interest of the applicant) may only revoke the power of attorney upon a showing of sufficient cause, and payment of the petition fee set forth § 1.17(h). For the assignee to take action a proper statement under § 3.73(b) is required.

The request cannot be approved because the statement under 3.73(b) is not proper or no statement under 3.73(b) was filed.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number). The power of attorney filed on December 14, 2005 does not include a proper chain of title or the 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

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Beyer Law Group LLP
P.O. BOX 1687
Cupertino, CA 95015-1687

Mail Date: 04/20/2010

Applicant	: Makoto Maki	: DECISION ON REQUEST FOR
Patent Number	: 7653404	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/384,403	: 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 **584** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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OFFICE OF PETITIONS

FISH & RICHARDSON P.C.
500 ARGUELLO STREET, SUITE 500
REDWOOD CITY, CA 94063

In re Application of Garnett et al. Application No. 10/384,406 Filed: March 6, 2003 Attorney Docket No. 14019-004001 For: SYSTEM, METHOD AND MODEL FOR AUTONOMIC MANAGEMENT OF ENTERPRISE APPLICATIONS	DECISION ACCORDING STATUS UNDER 37 CFR 1.47

This is in response to the petition under 37 CFR 1.47(a) filed November 13, 2003.

The petition is granted.

Petitioner has shown that the non-signing inventors have refused to join in the filing of the above-identified application after having been presented with the application papers.

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

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

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

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Prashant Gupta
1037 Franklin Ave.
Monterey, CA 93940

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DEC 12 2003

OFFICE OF PETITIONS

In re Application of :
Garnett et al. :
Application No. 10/384,406 :
Filed: March 6, 2003 :
Attorney Docket No. 14019-004001 :
For: SYSTEM, METHOD AND MODEL FOR :
AUTONOMIC MANAGEMENT OF :
ENTERPRISE APPLICATIONS :

Letter

Dear Mr. Gupta:

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

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

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

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

cc: FISH & RICHARDSON P.C.
500 ARGUELLO STREET, SUITE 500
REDWOOD CITY, CA 94063

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Paper No. 8

Robert Hagmann
3953 Laguna Ave.
Palo Alto, CA 94306

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DEC 1 2 2003

OFFICE OF PETITIONS

In re Application of :
Garnett et al. :
Application No. 10/384,406 :
Filed: March 6, 2003 :
Attorney Docket No. 14019-004001 :
For: SYSTEM, METHOD AND MODEL FOR AUTONOMIC MANAGEMENT OF ENTERPRISE APPLICATIONS :

Letter

Dear Mr. Hagmann:

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

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

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

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

cc: FISH & RICHARDSON P.C.
500 ARGUELLO STREET, SUITE 500
REDWOOD CITY, CA 94063

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PAUL HASTINGS JANOFSKY AND WALKER LLP
P.O. BOX 919092
SAN DIEGO, CA 92191-9092

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OFFICE OF PETITIONS

In re Application of	:	
Peter J. Lasensky, et al.	:	
Application No. 10/384,408	:	DECISION ON REQUEST
Filed: March 6, 2003	:	TO WITHDRAW
Attorney Docket No. PACIF1100-4	:	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 **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 S. Korniczky on behalf of himself and all the attorneys of record who are associated with Customer No. 36183.

All attorneys/agents associated with the Customer Number 36183 have been withdrawn. Accordingly, there is no attorney of record at this time.

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

The application became abandoned for failure to respond to a non-final Office action mailed September 23, 2005.

Telephone inquiries concerning this decision should be directed to Sherry D. Brinkley at 571-272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Conferee: David Bucci

cc: PACIFIC DATAVISION, INC.
6235 LUSK BOULEVARD
SAN DIEGO, CA 92121

BAKER & MCKENZIE
101 WEST BROADWAY, TWELFTH FLOOR
SAN DIEGO, CA 92101

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Paper No.

Troy R. Lester
Acushnet Company
333 Bridge Street
Fairhaven MA 02719

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JAN 22 2009

OFFICE OF PETITIONS

In re Application of :
Morgan et al. : DECISION ON PETITION
Application No. 10/384,417 :
Filed: March 7, 2003 :
Attorney Docket No. B03-07 :

This is a decision on the PETITION TO REVIVE UNDER 37 C.F.R. 1.137(b) filed July 29, 2008.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely file a proper reply to the non-final Office action mailed August 25, 2006. The Office action set a three (3) month shortened statutory period for reply, with extensions of time obtainable under 37 CFR 1.136(a). No proper reply having been received and no extensions of time obtained, the above-identified application became abandoned on November 26, 2006. A courtesy Notice of Abandonment was mailed on March 22, 2007.

In response, applicants filed the instant petition. The petition states the reply was previously filed in the form of a continuation application on February 16, 2007[1]; payment of the petition fee and the required statement of unintentional delay. Petitioner seeks revival solely for continuity purposes.

The above-identified application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the application, the application is again

[1] Applicants state that the continuation application was filed on February 17, 2007. This is inconsistent with Office records which accord the application a filing date of February 16, 2007.

abandoned in favor of continuation application (application No. 11/707,493) received February 16, 2007.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,050 extension of time fee submitted with the petition on July 29, 2008 was submitted subsequent to the maximum extendable period for reply, this fee is unnecessary and is being refunded.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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CONN. ANALYTICAL CORP.
ATT: JOSEPH J. BANGO, JR.
696 AMITY ROAD
BETHANY CT 06524

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OFFICE OF PETITIONS

In re Application of	:	
Fenn, John B.	:	
Application No. 10/384,437	:	ON PETITION
Filed: March 10, 2003	:	
Title: ELECTROSPRAY AIR SAMPLER	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed November 15, 2006, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:
(1) the required reply,[1]
(2) the petition fee,
(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
(4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information.[2]

The instant petition lacks item (1). Although with the five-month extension of time, the response submitted with the instant petition could be considered timely, the amendment is still non-compliant and the application is properly abandoned. The amendment fails to correct the items discussed in the Notice mailed June 15, 2006.

Further, although the Certificate of Mailing is signed, the actual petition is not signed and it unclear who the petitioner is. Documents filed in an application must be signed by:

(1) An attorney or agent of record appointed in compliance with § 1.34(b);

---

[1] In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

[2] See MPEP 711.03(c)(III)(C) and (D).

(2) A registered attorney or agent not of record who acts in a representative capacity under the provisions of § 1.34(a);

(3) The assignee of record of the entire interest, if there is an assignee of record of the entire interest;

(4) An assignee of record of an undivided part interest, and any assignee(s) of the remaining interest and any applicant retaining an interest, if there is an assignee of record of an undividing part interest; or

(5) All of the applicants (§§ 1.42. 1.43 and 1.47) for patent, unless there is an assignee of record of the entire interest and such assignee has taken action in the application in accordance with §§ 3.71 and 3.73.

If the instant petition is on the behalf of the assignee, the petition does not comply with 37 CFR 3.73(b). 37 CFR 3.73(b) provides that: (1) when an assignee seeks to take action in a matter before the Office, the assignee must establish its ownership of the property to the satisfaction of the Commissioner; (2) ownership is established by submitting to the Office, in the Office file related to the matter in which action is sought to be taken, documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment submitted for recording) or by specifying (*e.g.*, reel and frame number) where such evidence is recorded in the Office; (3) the submission establishing ownership must be signed by a party authorized to act on behalf of the assignee; and (4) documents submitted to establish ownership may be required to be recorded as a condition to permitting the assignee to take action in a matter pending before the Office. A 37 CFR 3.73(b) statement is enclosed.

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

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

By hand: Customer Window located at:

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

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

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

Liana Walsh
Petitions Examiner
Office of Petitions

Enclosure: PTO/SB/96 – Statement under 3.73(b)

PTO/SB/96 (04-07)
Approved for use through 09/30/2007. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
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STATEMENT UNDER 37 CFR 3.73(b)

Applicant/Patent Owner: _____

Application No./Patent No.: _____ Filed/Issue Date: _____

Entitled:

_____, a _____
(Name of Assignee) (Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

states that it is:

1. ☐ the assignee of the entire right, title, and interest; or

2. ☐ an assignee of less than the entire right, title and interest
(The extent (by percentage) of its ownership interest is _____%)

in the patent application/patent identified above by virtue of either:

A. ☐ An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or for which a copy thereof is attached.

OR

B. ☐ A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as follows:

1. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

2. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

3. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

☐ Additional documents in the chain of title are listed on a supplemental sheet.

☐ As required by 37 CFR 3.73(b)(1)(i), the documentary evidence of the chain of title from the original owner to the assignee was, or concurrently is being, submitted for recordation pursuant to 37 CFR 3.11.

[NOTE: A separate copy (*i.e.*, a true copy of the original assignment document(s)) must be submitted to Assignment Division in accordance with 37 CFR Part 3, to record the assignment in the records of the USPTO. See MPEP 302.08]

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

Signature	Date
Printed or Typed Name	Telephone Number
Title	

This collection of information is required by 37 CFR 3.73(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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
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CONN. ANALYTICAL CORP.
ATT: JOSEPH J. BANGO, JR.
696 AMITY ROAD
BETHANY CT 06524

COPY MAILED

JAN 25 2008

OFFICE OF PETITIONS

In re Application of	:	
Fenn, John B.	:	
Application No. 10/384,437	:	ON PETITION
Filed: March 10, 2003	:	
Title: ELETROSPRAY AIR SAMPLER	:	

This is a decision on the renewed petition under 37 C.F.R. § 1.137(b), filed September 26, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:
(1) the required reply,[1]
(2) the petition fee,
(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
(4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information.[2]

The instant petition lacks item(s) (1). Petitioner has failed to properly comply with the Notice of Non-Compliant Amendment mailed previously on June 15, 2006. As the Notice states, the

---

[1] In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

[2] See MPEP 711.03(c)(III)(C) and (D).

amendment do not comply as each claim has not been provided with the proper status identifier. Each claim must have the status identifiers beside the claim number (ex. Claim 7 (currently amended). A compliant amendment must be submitted for revival.

A copy of the Notice is enclosed for petitioner's convenience.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Window located at:

U.S. Patent and Trademark Office
Customer Service Window Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

Enclosure: Notice of Non-Compliant Amendment (37 CFR 1.121)

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.
10/384,437	03/10/2003	John B. Fenn		2176

7590 06/15/2006

CONN. ANALYTICAL CORP.
Att: Joseph J. Bango, Jr.
696 AMITY ROAD
BETHANY, CT 06524

EXAMINER
SINES, BRIAN J

ART UNIT	PAPER NUMBER
1743	

DATE MAILED: 06/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Notice of Non-Compliant Amendment (37 CFR 1.121)	Application No. 10/384437	Applicant(s)	
	Examiner	Art Unit	

-- The MAILING DATE of this communication appears on the cover sh t with th correspondenc address --

The amendment document filed on 19 April 2006 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121 or 1.4. In order for the amendment document to be compliant, correction of the following item(s) is required.

THE FOLLOWING MARKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- ☐ 1. Amendments to the specification:
  - ☐ A. Amended paragraph(s) do not include markings.
  - ☐ B. New paragraph(s) should not be underlined.
  - ☐ C. Other _____.
- ☐ 2. Abstract:
  - ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
  - ☐ B. Other _____.
- ☐ 3. Amendments to the drawings:
  - ☐ A. The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).
  - ☐ B. The practice of submitting proposed drawing correction has been eliminated. Replacement drawings showing amended figures, without markings, in compliance with 37 CFR 1.84 are required.
  - ☐ C. Other _____.
- ☒ 4. Amendments to the claims:
  - ☐ A. A complete listing of all of the claims is not present.
  - ☐ B. The listing of claims does not include the text of all pending claims (including withdrawn claims)
  - ☒ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following status identifiers: (Original), (Currently amended), (Canceled), (Previously presented), (New), (Not entered), (Withdrawn) and (Withdrawn-currently amended).
  - ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
  - ☒ E. Other: *The status identifier must be beside the claim number (ex. Claim 7(currently amended)*.
- ☐ 5. Other (e.g., the amendment is unsigned or not signed in accordance with 37 CFR 1.4):

_____

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714.

TIME PERIODS FOR FILING A REPLY TO THIS NOTICE:

1. Applicant is given **no new time period** if the non-compliant amendment is an after-final amendment or an amendment filed after allowance. If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the **entire corrected amendment** must be resubmitted.

2. Applicant is given **one month**, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the correction, if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment (including a submission for a request for continued examination (RCE) under 37 CFR 1.114), a supplemental amendment filed within a suspension period under 37 CFR 1.103(a) or (c), and an amendment filed in response to a *Quayle* action. If any of above boxes 1. to 4. are checked, the correction required is only the **corrected section** of the non-compliant amendment in compliance with 37 CFR 1.121.

   Extensions of time are available under 37 CFR 1.136(a) only if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action.

   Failure to timely respond to this notice will result in:
   Abandonment of the application if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action; or
   Non-entry of the amendment if the non-compliant amendment is a preliminary amendment or supplemental amendment.

Crystal Green — 571-272-1041

Legal Instruments Examiner (LIE), if applicable — Telephone No.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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HAYNES BEFFEL & WOLFELD LLP
P O BOX 366
HALF MOON BAY CA 94019

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NOV 0 5 2009

OFFICE OF PETITIONS

In re Patent No. 6,960,739	:	
Issue Date: November 01, 2005	:	
Application No. 10/384,439	:	NOTICE UNDER 37 CFR. 1.28(c)
Filed: March 06, 2003	:	
Attorney Docket No. NWAV 1001-6	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the Michelle R. Eason at (571) 272-4231.

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
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VERIZON
PATENT MANAGEMENT GROUP
1320 NORTH COURT HOUSE ROAD, 9TH FLOOR
ARLINGTON, VA 22201-2909

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MAY 26 2009

OFFICE OF PETITIONS

In re Application of	:	
Dimitrios S. KOKKINOS	:	
Application No. 10/384,459	:	DECISION ON PETITION
Filed: March 7, 2003	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. **02-1511**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 29, 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 26, 2008, as required by the Notice of Allowability, mailed August 26, 2008. Accordingly, the date of abandonment of this application is November 27, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form corrected drawing(s); (2) the petition fee of $1620; and (3) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253.

This application is being referred to the Office of Data Management for processing into a patent.

Brian W. Brown
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JAN 13 2005

Martin & Ferraro, LLP
1557 Lake O'Pines Street, NE
Hartville, OH 44632

Paper No. #7

In re Application of Gary K. Michelson Serial No. : 10/384,460 Filed : March 7, 2003 For : Self-Broaching, Rotatable, Push-In Interbody Spinal Fusion Implant and Method for Deployment Thereof	: DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on petitioner's request filed via facsimile transmission December 21, 2004, to review the holding of abandonment mailed May 19, 2004, for failure to respond to the Notice of Allowability and the Notice of Allowance and Fee(s) Due mailed January 2, 2004. There is no fee required for this petition. It is noted that the request includes a showing that the Office in fact received a first submission of the request on May 27, 2004. The original, however, is not in the file.

In order to overcome the presumption of delivery of an Office action, a practitioner must submit the following: (1) a statement from the practitioner stating that the Office action was not received by practitioner; (2) a statement attesting to the fact that a search of the file jacket and docket record 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 and docketed. See 1156 OG 53.

The request filed December 21, 2004, includes all the above elements. The request is therefore GRANTED. Upon the mailing of this decision, the application will be forwarded to the Legal Instruments Examiner for the remailing of the Notice of Allowability as well as the Notice of Allowance and Fee(s) Due.

Summary: Holding of Abandonment Withdrawn.

John E. Kittle, Director
Technology Center 3700
Phone: (571) 272-2975

ak/12/21/04

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UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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MAIL

Paper No. 7

#10

JUN 0 7 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Stephen J. Koundakjian
P.O. Box 758
South Pasadena CA 91031-0758

In re Application of
Wilkinson, et al.
Application No. 10/384,471
Filed: March 7, 2003
For: **CONFIGURATION OF THREE-DIMENSIONAL FEATURES IN DATA RECORDING STRUCTURES**

DECISION GRANTING PETITION TO RESET PERIOD FOR REPLY

This is a decision on the petition filed on March 16, 2004, requesting that the shortened statutory period for reply set forth in the Office communication mailed on February 2, 2004 be reset to run two months from the date on which the Office communication was received in total by the Practioner.

The petition is **GRANTED.**

Petitioner brought to the attention of the Office a defect in the Office communication mailed on February 2, 2004, specifically that the detailed action was missing. A copy of the Office communication was faxed to, and receipt acknowledged by the Practitioner on March 16, 2004.

Given that more than one month of the shortened statutory period for response had lapsed before the defect was brought to the Office's attention, the shortened statutory period that was originally set forth in the Office action originally mailed on February 2, 2004 is hereby reset to run TWO MONTHS FROM THE RECEIPT DATE OF March 16, 2004.

Dwayne D. Bost
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/384,472	03/07/2003	Joseph Porat	206,058	1661

7590 03/16/2005

Abelman, Frayne & Schwab
150 East 42nd Street
New York, NY 10017

EXAMINER
HOEY, BETSEY MORRISON

ART UNIT	PAPER NUMBER
1724	

DATE MAILED: 03/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

UNITED STATES PATENT AND TRADEMARK OFFICE

MAR 1 5 2005

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Application of	:	
Joseph Porat	:	
Serial Number : 10/384,472	:	WITHDRAWAL
Filed : March 07, 2003	:	FROM
For : PORTABLE OZONE TREATMENT	:	ISSUE
FOR SWIMMING POOLS	:	

The purpose of this communication is to inform you that the above-identified application is being withdrawn from issue pursuant to 37 CFR 1.313.

The application is being withdrawn to permit reopening of prosecution. The reasons therefore will be communicated to you by the examiner.

PTO records reveal that the issue fee has not been paid. If the issue fee has been submitted, the applicant may request a refund or may request that the fee be credited to a deposit account. However, applicant may wait until the application is either again found allowable or held abandoned. If the application is allowed, upon receipt of a new Notice of Allowance and Issue Fee Due, applicant may request that the previously submitted issue fee to applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due. If the application is abandoned, applicant may request either a refund or a credit to a deposit account.

The application is being forwarded to the examiner for action. Telephone inquiries should be directed to Duane Smith at 571-272-1166.

JMStone

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Abelman, Frayne & Schwab
150 East 42nd Street
New York, NY 10017

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JOSEPH SNYDER
TOWNSEND AND TOWNSEND AND CREW LLP
TWO EMBARCADERO CENTER
SAN FRANCISCO, CA 94111

COPY MAILED
JUL 1 1 2006
OFFICE OF PETITIONS

In re Application of	:	
Charles H. Graham et al	:	
Application No. 10/384,499	:	DECISION ON PETITION
Filed: March 6, 2003	:	TO WITHDRAW
Attorney Docket No. 10692V-000522US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 19, 2005.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Joseph Snyder has been revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

The correspondence address of record remains unchanged.

Telephone inquires concerning this decision should be directed to Irvin Dingle at 571-272- 3210.

Amelia Au
Petitions Examiner
Office of Petitions

cc: Steven Scribner, Ph.D.
Parteq Innovations
Biosciences Complex, Room 1625
Queen's University
Kingston, Ontario K7L 3N6

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COMMISSIONER FOR PATENTS
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WWW.USPTO.GOV

Paper No. 5

SUITER WEST PC LLO
14301 FNB PARKWAY
SUITE 220
OMAHA NE 68154

COPY MAILED

JUN 2 3 2003

OFFICE OF PETITIONS

In re Application of Griffin, et al. Application No. 10/384,510 Filed: March 7, 2003 Attorney Docket No. PTG 02-114-1 For: ROUTER BASE SECURING MECHANISM	DECISION GRANTING PETITION

This is a decision on the petition under 37 CFR 1.53(e), filed May 16, 2003 (certificate of mailing date May 14, 2003), requesting, in effect, withdrawal of the Notice of Omitted Item(s) in a Nonprovisional Application (Notice), mailed May 5, 2003.

The application was filed on March 7, 2003. On May 5, 2003, the Office of Initial Patent Examination mailed a Notice informing petitioners that Figures 3A and 3B described in the specification appeared to have been omitted.

In response to the Notice, petitioners timely filed the present petition. Petitioners request that Figures 3A and 3B be accorded a filing date of March 7, 2003 on the basis that 8 sheets of drawing figures, including Figures 3A and 3B, were received in the Patent and Trademark Office (PTO) on March 7, 2003. Petitioners request relief based on (1) the fact that the application was deposited as Express Mail on March 7, 2003 and (2) petitioners' date stamped return receipt postcard that contains an Office generated barcode listing March 7, 2003 as the filing date of the application.

Petitioners are advised that the provisions of 37 CFR 1.10(e) cannot be utilized to prove the contents of a mailing. MPEP 513 states, "Where there is a dispute as to the contents of correspondence submitted to the Office,...an applicant may not rely upon the provisions of 37 CFR 1.10(e) to establish what document(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)... 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)... purported to have been filed with the correspondence at issue) that the Office received and misplaced any document(s).. That is not among the official records of the Office."

A properly itemized return postcard constitutes *prima facie* evidence that the items were filed on the date stamped thereon.

Petitioners have submitted a copy of their itemized postcard receipt showing an Office of Initial Patent Examination generated barcode citing March 7, 2003 as the date of receipt. The postcard lists, *inter alia*, that the filing included 8 sheets of drawings.

The return postcard constitutes *prima facie* evidence that 8 sheets of drawing figures were filed on March 7, 2003. MPEP 503. A review of the sheets of drawings present in the application file reveals that only 7 sheets are present. Accordingly, the request is granted.

Pursuant to petitioners' authorization, the $130.00 petition fee will be credited to deposit account no. 19-4882.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of March 7, 2003, using the copy of Figures 3A and 3B submitted with the instant petition. Office records will be corrected to show that 8 sheets of drawings were present on filing.

Any inquiries pertaining to this matter may be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 6/17/03

2 Serial/Patent # 10/384,510

	3 Please refund the following fee(s):	4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
	Extension of Time			$
	Notice of Appeal/Appeal			$
X	Petition	3	5/16/03	$ 130
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND $ 130

8 TO BE REFUNDED BY:

	Treasury Check
X	Credit Deposit A/C #:

9 1 9 -- 4 8 8 2

10 REASON:

	Overpayment
	Duplicate Payment
X	No Fee Due (Explanation):

Postcard proves allegedly omitted drws were present upon initial filing. Refund pet fee

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: E Shirene Willis TITLE: Pet Atty

SIGNATURE: E Shirene Willis PHONE: 308-6712

OFFICE: Office of Petitions

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: [illegible] DATE: 6/23/03

Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to:

Office of Finance
Refund Branch
Crystal Park One, Room 802B

FORM PTO 1577
(01/90)

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260 BEAR HILL ROAD
WALTHAM, MA 02451-1018

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OFFICE OF PETITIONS

In re Application of	:	
Mansoor Khan et al	:	
Application No. 10/384,511	:	DECISION ON PETITION
Filed: March 7, 2003	:	TO MAKE SPECIAL UNDER
Attorney Docket No. KEY–101J	:	37 C.F.R. § 1.102(d)
	:	

This is a decision on the petition under 37 CFR 1.102(d), filed on October 24, 2005, to make the above-identified application special based on developing treatments and cures for HIV/AIDS or cancer as set forth in M.P.E.P. § 708.02, Section X.

The petition is **DISMISSED**.

A grantable petition to make an application special under 37 CFR 1.102(d) and MPEP § 708.02, Section X: Inventions Relating to HIV/AIDS or cancer, must be accompanied by (1) the petition fee under 37 CFR 1.17(h); and (2) a satisfactory statement explaining how the invention contributes to the diagnosis, treatment or prevention of HIV/AIDS or cancer.

Advanced prosecution under section X is a commitment by the Office to devote extra resources to expedite the examination of inventions related to promising technology, and is reserved for inventions that directly contribute to the diagnosis, treatment, or prevention of HIV/AIDS or cancer. Inventions having only a tangential relationship to the HIV/AIDS or cancer will not, in order preserve the limited resources of the Office, be treated as special.

Neither the claims nor the specification of the instant application mention the phrases "HIV/AIDS" or "cancer." Nor is the invention focused on improvements for only those areas. Rather, the invention is directed towards improvements in technology for tests. The invention is not, therefore, considered to be in the specific field of HIV/AIDS or cancer. Although improvements in diagnosis, treatment and prevention may provide a benefit, any relation to specific advances in the fields of HIV/AIDS and cancer is considered to be a tangential rather than a direct or material result of the invention.

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 FAX: (571) 273-8300

Telephone inquiries concerning this decision should be directed to Wan Laymon at 571-272-3220.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center AU 3626 for action in its regular turn.

Amelia Au
Petitions Examiner
Office of Petitions

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Samuels, Gauthier & Stevens LLP
Suite 3300
225 Franklin Street
Boston, MA 02110

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JUL 29 2005

OFFICE OF PETITIONS

In re Application of:	:	
Gerd Uwe Schmidt	:	
Application No. 10/384,514	:	DECISION ON
Filed: March 7, 2003	:	PETITION
Title of Invention:	:	
METHOD FOR THE MANUFACTURE OF A	:	
SPRING CORE AND DEVICE FOR	:	
IMPLEMENTING THE METHOD	:	

This is a decision on the petition for revival of an application abandoned unintentionally under 37 CFR 1.137(b), filed June 29, 2005, to revive the above-identified application.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the nonfinal Office action, mailed 15 October, 2004. The Notice set a shortened statutory period for reply of three (3) months from the mail date of the Notice, and also provided for extensions of time under 37 CFR 1.136(a). No reply having been received, the application became abandoned January 16, 2005. A Notice of Abandonment was mailed June 15, 2005.

With the instant petition, Applicant has filed an Amendment in response to the non-final Office action.

This application is being returned to Technology Center 3725 for processing of the Amendment, filed June 29, 2005, in due course.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney/Advisor
Office of Petitions

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EUGENE MAR/BACON & THOMAS
625 SLATERS LANE
4TH FLOOR
ALEXANDRIA, VA 22314

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OFFICE OF PETITIONS

In re Application of	:
Kwan-Ku Lin	:
Application No. 10/384,533	: DECISION GRANTING PETITION
Filed: March 11, 2003	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. LINK3023/EM	:

This is a decision on the petition, filed April 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 December 22, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 3733 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission), which includes the following language thereon: "The Director of the USPTO is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee in the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

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VOLENTINE & WHITT PLLC
ONE FREEDOM SQUARE
11951 FREEDOM DRIVE SUITE 1260
RESTON VA 20190

MAILED
JUN 18 2010
OFFICE OF PETITIONS

In re Patent No. 6,933,083
Application No. 10/384,540
Filing Date: March 11, 2003
Issue Date: August 23, 2005
Attorney Docket No. SEC.1029

DECISION GRANTING PETITION

This is a decision on the petition under 37 CFR 1.182, filed May 25, 2010, requesting issuance of duplicate Letters of Patent for the above-identified patent.

The petition is **granted**.

The file record discloses that the above-cited application matured into U.S. Patent No. 6,933,083 on August 23, 2005. Petitioner contends, however, that the patent was received but lost thereafter.

In view of the facts set forth in the petition, it is concluded that the original Letters of Patent was lost after receipt. The Publishing Division is directed to issue duplicate Letters of Patent.

Any questions concerning this decision may be directed to the undersigned at (571)272-3222. Any questions concerning issuance of the duplicate Letter of Patent should be directed to Niomi Farmer, Office of Data Management at (703) 308-9250 extension 129.

A copy of this decision is being forwarded to the Office of Data Management for issuance of a duplicate Letter of Patent

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

cc: Niomi Farmer—Office of Data Management FAX: 571-270-9753

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BACON & THOMAS, PLLC
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ALEXANDRIA VA 22314

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AUG 2 2 2005

OFFICE OF PETITIONS

In re Application of
Ming Nien
Application No. 10/384,559
Filed: March 11, 2003
Attorney Docket Number: NIEN3025/EM

: NOTICE

This is a notice regarding your request filed on September 2, 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.

Telephone inquiries specific to this decision may be directed to the undersigned at (571) 272-3215.

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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WENDEROTH LIND & PONACK
2033 K STREET N.W, SUITE 800
WASHINGTON, DC 20006-1021

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OFFICE OF PETITIONS

In re Application of :
Takao Fukuoka et al :
Application No. 10/384,577 : ON PETITION
Filed: March 11, 2003 :
Attorney Docket No. 2003_0330 :

This is a decision on the petition, filed January 25, 2005, under 37 CFR 1.313(c), 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 December 17, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 1743 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

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SEP 15 2004

In re Application of	:	
David James Blankenship	:	
Application No. 10/384,587	:	DECISION ON PETITION
Filed: March 11, 2003	:	
Attorney Docket No. 30018/10003	:	

This is a decision on the petition to make special filed on July 25, 2003. The petition is based upon the practice described in MPEP § 708.02(VIII) "Accelerated Examination." The $130.00 petition fee has been paid.

The petition is denied.

The petition to make special based upon the practice in the above mentioned MPEP sections is not deemed to satisfy all of the requirements thereof. Specifically, although petitioner stated that the claims are directed to a single invention for restriction purposes, petitioner also stated he "reserved the right" to make an election of a single invention without traverse in the event that restriction is required, and did not state that an election would be in fact be made without traverse. See MPEP § 708.02(VIII). Additionally, the record shows that a restriction requirement was in fact promulgated on May 3, 2004, and an election **with** traverse was in fact made on June 1, 2004.

Petitioner may file a renewed petition within two months of this decision. See 37 CFR 1.181(f).

The application remains pending in Technology Center 3700 awaiting an action in response to the June 1, 2004 election.

PETITION DENIED.

Stephen Marcus, Special Program Examiner
Technology Center 3700

MARSHALL, GERSTEIN & BORUN LLP
6300 SEARS TOWER
233 S. WACKER DRIVE
CHICAGO, IL 60606

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JOSE A. GARCIA
14 BLAKLEY AVENUE
TORONTO ON M6N 3Y5
CANADA

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MAY 16 2006

OFFICE OF PETITIONS

In re Application of	:	
Jose A. Garcia	:	
Application No. 10/384,598	:	DECISION ON PETITION
Filed: 11 March, 2003	:	
For: DEVICE AND METHOD FOR	:	
DIFFERENTIAL SENSING OF	:	
HYDROGEN GAS USING	:	
THERMOABSORPTANCE OR	:	
THERMOREFLECTANCE	:	

This is a decision on the petition filed on 9 January, 2006, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 27 June, 2005, for failure to timely respond to the Notice of Non-Compliant Amendment (37 CFR 1.121) mailed on 26 May, 2005, which set a one (1) month shortened period for reply. No extensions of the time for reply

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[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional 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)).

under 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 23 November, 2005.

Petitioner has filed an amendment as the required reply.

This application is being referred to Technology Center Art Unit 2877 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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
1500 K STREET N.W.
SUITE 700
WASHINGTON, DC 20005

Mail Date: 04/21/2010

Applicant	: Jeffrey Michael Wendlandt	: DECISION ON REQUEST FOR
Patent Number	: 7582079	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/384,631	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/11/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1442** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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SUITE 400
1050 CONNECTICUT AVENUE, N.W.
WASHINGTON DC 20036-5339

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OFFICE OF PETITIONS

In re Application of	:	
Zong Huei Lin et al	:	
Application No. 10/384,641	:	DECISION GRANTING PETITION
Filed: March 11, 2003	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 025796-00005	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 7, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the issue fee and publication fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowance of April 19, 2006, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Publishing Division.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 6869841
Issue Date: March 22,2005
Application No. 10384667
Filed: March 11,2003
Attorney Docket No. ITO.0505D1US (P12498D)

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

This is a decision on the electronic petition, filed November 3,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of November 3,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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)
6869841	2005-03-22	10384667	2003-03-11	P12498D

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	/Jeffrey S. Draeger/	Date (YYYY-MM-DD)	2009-11-02
Name	/Jeffrey S. Draeger/	Registration Number	41000

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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ANDREW M. CALDERON
MCGUIRE WOODS, LLP
SUITE 1800
1750 TYSONS BLVD.
MCLEAN, VA 22102

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OCT 19 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Keisuke Ban :
Application No. 10/384,718 :
Filed: March 11, 2003 :
Attorney Docket No. N45-155192M/HDK

This is a decision on the petition, filed October 12, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 13, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter will be forwarded to Technology Center AU 1725 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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HELLER EHRMAN WHITE & MCAULIFFE LLP
1717 RHODE ISLAND AVE, NW
WASHINGTON, DC 20036-3001

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OCT 25 2005

Director's Office
Group 3700

Paper No. 8

In re Application of
POUNDER ET AL.
Appl No.: 10/384,736
Filed: March 11, 2003

DECISION GRANTING PETITION
37 CFR 1.181

This is a decision on petitioner's request filed May 18, 2004, requesting withdrawal of the holding of abandonment mailed May 14, 2004 based on no response being filed after the non-final rejection mailed November 6, 2003. The petition is considered pursuant to 37 CFR 1.181, and no fee is required for the petition.

The petition is granted.

In support of the request, petitioner has submitted a copy of a response and a copy of a PTO stamped post card receipt dated May 6, 2004. Furthermore, the original response is now in the file. The response also included a petition for a three-month extension of time to the three-month shortened statutory period set forth in the non-final rejection mailed November 6, 2003.

In view of the above, the Notice of Abandonment mailed May 14, 2004 is hereby vacated and the holding of abandonment is withdrawn. This application is being forwarded to the Technical Support Staff to return the application to an active status and for entry of the response. The application will then be forwarded to the examiner for appropriate action.

Richard A. Bertsch, Director
Technology Center 3700

Pet. Dec.

UNITED STATES PATENT AND TRADEMARK OFFICE

Technology Center 1700

Mailed: 5/23/05

MEB
Paper Number:

In re application of
Fukuoka et al.
Serial No. 10/384,757
Filed: March 11, 2003
For: Method for Measuring Substance and Testing Piece

DECISION ON PETITION

This is a response to the PETITION TO WITHDRAW ABANDONMENT, filed March 14, 2005. The petition requests that the abandonment, as set forth in the Notice of Abandonment of March 7, 2005, for failure to timely reply to the Office Action of June 24, 2004 be withdrawn. The petitioner asserts that the response was timely filed on September 24, 2004. A copy of the response and the stamped postcard receipt is provided as evidence.

DECISION

The instant request is accepted as a timely petition under 37 C.F.R. 1.181 (no fee), and is evaluated under the procedures regarding a Petition To Withdraw Holding of Abandonment Based on Evidence That a Reply Was Timely Mailed or Filed.

As set forth in MPEP 711.03(c) Petition To Withdraw Holding of Abandonment Based on Evidence That a Reply Was Timely Mailed or Filed:
37 CFR 1.10(c) through 1.10(e) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 CFR 1.10(c), (d), or (e) (see MPEP § 513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date. Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides prima facie evidence that the reply was timely filed. See MPEP § 503. For example, if the application has been held

abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt. Where a certificate of mailing or transmission 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). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 CFR 1.8).

The petitioner's showing, of the postcard receipt, that the response was submitted by mail on September 24, 2004 is sufficient. The application will be forwarded to for processing and consideration of the papers filed March 14, 2005 (postcard receipt date of September 24, 2004) and a copy of which is provided as an attachment to the instant petition.

The Petition is **Granted**.

UNITED STATES PATENT AND TRADEMARK OFFICE

Technology Center 1700

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

WARREN M. CHEEK, JR.
WENDEROTH, LIND & PONACK, L.L.P.
2033 K ST., N.W.
SUITE 800
WASHINGTON, DC 20006-1021

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NOV 16 2007

MILLEN WHITE ZELANO & BRANIGAN, PC
2200 CLARENDON BLVD
SUITE 1400
ARLINGTON, VA 22201

In re Application of	:
Norbet Schmees et al	:
Serial No.: 10/384,775	: PETITION DECISION
Filed: March 11, 2003	:
Attorney Docket No.: SCH-2025	:

This is in response to the petition under 37 CFR 1.144, filed July 12, 2006, requesting withdrawal of an improper restriction requirement. The delay in acting on this petition is regretted.

BACKGROUND

A review of the file history shows that this application was filed under 35 U.S.C. 111 on March 11, 2003, and contained claims 1-34, as amended. In a first Office action, mailed February 22, 2005, the examiner required restriction, as follows:

Group I – claims 1-7, drawn to the compounds of formula I wherein Ar is structure (a) (a benzoxazin-1-one) of claim 1;
Group II – – claims 1-7, drawn to the compounds of formula I wherein Ar is structure (b) (a phthalide) of claim 1;
Group III – – claims 8-34, drawn to the methods of use of the above compounds.

An election of species was also required for whichever group was elected.

The examiner reasoned that the compounds were separate and distinct from each other and the methods of use. However, the possibility of rejoinder of withdrawn method claims with allowed compound claims was noted.

Applicants replied on March 22, 2005, amending claims 1-2, 4-5, 8, 11, 15, 17-18, 22-23, 30-31 and 33 and adding claims 35-42 and electing the compounds of Group II with traverse and

identifying a species for further prosecution. The requirement was traversed as improper for splitting a proper Markush group and for not retaining the methods with the products.

The examiner mailed a new Office action to applicants on May 20, 2005, acknowledging the election of Group II, but maintaining the requirement based on separate classification and burden of search. The requirement was made Final. The examiner then rejected claims 1-7 under 35 U.S.C. 102(b), as anticipated by Lehmann et al. Claims 1-7 were also rejected under 35 U.S.C. 103(a) as unpatentable over Lehmann et al.

Applicants replied on September 20, 2005, amending claims 12, 25, 32 and 34 and adding claim 43. Applicants again traversed the restriction requirement arguing that the Markush groups contained only two species and they should be examined together. The rejections of record were also addressed.

The examiner mailed a Final Office action to applicants on April 20, 2006, again maintaining the restriction requirement and its finality. The same rejections of record were made and applicants' arguments addressed.

On July 12, 2006, applicants filed this petition requesting withdrawal of an improper restriction requirement.

On October 19, 2006, applicants filed a Notice of Appeal followed on December 19, 2006, by RCE papers and a reply in which claims 1-43 were canceled and claims 44-131 were added. Applicants again addressed the restriction requirement as it applied to the new claims and addressed the rejections of record including an affidavit under 37 CFR 1.132 with regard to the rejection under 35 U.S.C. 103(a).

The examiner mailed a new non-Final Office action to applicants on March 12, 2007. No restriction requirement was made, however, applicants were advised that claims 44 and 45 contained non-elected phthalide species which should be deleted. Claims 58-131 were rejected under 35 U.S.C. 112, first paragraph, as lacking written description. Claims 44-57 were rejected for obvious double patenting over US 7,112,584.

Applicants replied on July 12, 2007, noting the undecided petition for review of the restriction requirement and addressing the rejections of record.

The examiner mailed a Final Office action to applicants on September 14, 2007. The examiner objected to claims 44-45, 60 and 114 as containing non-elected subject matter. Claims 58-70 and 120-129 were rejected under 35 U.S.C. 112, second paragraph, as indefinite. The rejection of claims 71-119 and 130-131 under 35 U.S.C. 112, first paragraph, as lacking written description, was also maintained.

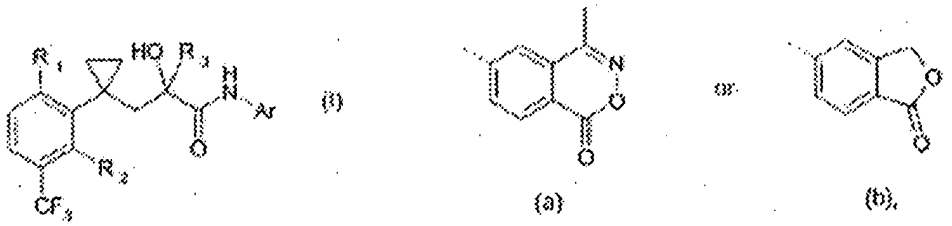
Applicants filed a new set of RCE papers on October 30, 2007, and an amendment in which claims 58, 65-66 and 120-129 were amended, claims 71-119 and 130-131 were canceled and the rejections of record addressed. A specific request to address the petition was also included.

DISCUSSION

The petition is directed to the claims as originally filed, but applies to the claims presently under consideration.

It is initially noted that the examiner subsequent to the filing of the petition effected rejoinder of the method of use claims with the compound claims, although such request was not argued in the petition.

A review of the claims, as filed, shows that they are directed to compounds based on the structure identified as formula I, having major variable Ar which is one of the structures (a) or (b), as shown:



As described, R_1 and R_2 are H or F and R_3 is CH_3 or CF_3. The compounds are generally described as non-steroidal progestins based on the structure to the left of the Ar group. Such structure, since it is both common to all compounds claimed, is significant and is a recognized class of chemical compounds should enable a search of all compounds within the Markush group without undue burden. Claim 1 encompasses only 16 possible compounds even when all variables are taken into account. Thus the number of compounds is sufficiently small that no undue burden exists in searching all compounds since there is only one significant variable, the Ar moiety. In view thereof, the restriction requirement between Groups I and II is withdrawn.

DECISION

The petition is **GRANTED** as set forth above. All claims will be examined.

The application will be forwarded to the examiner for consideration of applicants' RCE papers and reply filed October 30, 2007, and further action 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 571-272-0519 or by facsimile sent to the general Office facsimile number, 571-273-8300.

John LeGuyader
Director, Technology Center 1600

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MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

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OCT 29 2007

OFFICE OF PETITIONS

In re Application of	:	
Thomas Lohmann, et al.	:	
Application No. 10/384,780	:	DECISION ON PETITION
Filed: March 11, 2003	:	TO WITHDRAW
Attorney Docket No. 449122052300	:	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 1, 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 August 2, 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: KEVIN R. SPIVAK
BELL. BOYD & LLOYD, LLC
70 WEST MADISON STREET
SUITE 3100
CHICAGO, IL 6062-4207

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260 BEAR HILL ROAD
WALTHAM, MA 02451-1018

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MAR 1 3 2006

OFFICE OF PETITIONS

In re Application of :
Richard M. Lloyd :
Application No. 10/384,804 :
Filed: May 10, 2003 :
Attorney Docket No. RAY-138J

ON PETITION

This is a decision on the petition filed, March 10, 2006 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **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 23, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 3641 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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OFFICE OF PETITIONS

In re Application of Richard M. Lloyd Application No. 10/384,804 Filed: March 10, 2003 Attorney Docket No. RAY-138J	DECISION GRANTING PETITION UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition, filed December 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 April 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) 272-3218.

This matter is being referred to Technology Center AU 3641 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\FHicks\My Documents\470\Dec10\384804.wpd

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment.*

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EDWARD D. MANZO
COOK ALEX MCFARRON MANZO
CUMMINGS & MEHLER
200 WEST ADAMS ST., STE. 2850
CHICAGO, IL 60606

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OCT 25 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Shunpei Yamazaki	:	
Application No. 10/384,807	:	
Filed: March 10, 2003	:	
Attorney Docket No. 0553-0204.02	:	

This is a decision on the petition under 37 CFR 1.313, filed October 25, 2004,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). See37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 21, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 2821 for processing of the request for continued examination under 37 CFR 1.114.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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Paper No. 6

RATNERPRESTIA
NEMOURS BUILDING
1007 ORANGE STREET, SUITE 1100
P.O. BOX 1596
WILMINGTON DE 19899

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OFFICE OF PETITIONS

In re Application of
Jeffrey G. Hunchar et al.
Application No. 10/384,812
Filed: March 10, 2003
Attorney Docket No. ARK-163US2

DECISION ACCORDING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed November 17, 2003.

The petition is GRANTED.

The above-identified application was filed on March 10, 2003, without an executed oath or declaration and naming Jeffrey G. Hunchar, Leslie A. Confer and Kevin C. Somerville as co-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. A two month period for reply was set.

In response, on November 17, 2003, the instant petition under 37 CFR 1.47(a), a declaration executed only by co-inventors Confer and Somerville, and petition for a four month extension of time was filed claiming that co-inventor Hunchar refused to execute the declaration. Co-inventor Hunchar's last known address and the required fees were also submitted. The petition bears proof that the application papers were sent to Mr. Hunchar and that by way of a registered mail return receipt, proves that the application papers had been delivered/received by Mr. Hunchar. Additionally, in a statement made by the attorney of record, Mr. Krikelis, he claims that Mr. Hunchar, in a telephone conversation with him, verbally refused to sign the oath or declaration.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or 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 above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). In view thereof, this application is hereby accorded Rule 1.47(a) status.

Thus, as provided in Rule 1.47(c), this Office will forward notice of this application's

filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The application is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries related to this decision should be directed to the undersigned 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
WASHINGTON, D.C. 20231
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Paper No. 4

David B. Cochran
Jones Day
North Point
901 Lakeside Avenue
Cleveland, OH 44114

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JUL 01 2003
OFFICE OF PETITIONS

In re Application of :
Sepetkovski, et al. :
Application No. 10/384,817 :
Filed: March 10, 2003 :
Attorney Docket No. 047961605002 :

ON PETITION

This is a decision on the petition filed June 11, 2003, to accord the above-identified application a filing date of March 10, 2003, instead of March 11, 2003.

Paragraph (c) of 37 CFR 1.10 sets forth procedures for filing a petition for a filing date where there is a discrepancy between the filing date initially accorded by the Office and the "date-in" entered by the USPS. Paragraph (d) of 37 CFR 1.10 sets forth procedures for filing a petition for a filing date where the "date-in" is incorrectly entered or omitted by the USPS.

Petitioner has failed to provide evidence establishing the "date-in" entered by the USPS. Specifically, petitioner has failed to provide the PTO with a copy of the express mail label. Since a copy of an express mail label has not been provided, petitioner has failed to establish the "date-in" entered by the USPS. Therefore, petitioner has failed to establish a discrepancy between the filing date accorded by the Office and the "date-in" entered by the USPS. In addition, petitioner has failed to establish that the "date-in" was incorrectly entered or omitted by the USPS.

Petitioner has supplied the result of a search of an USPS database. The search result indicates the package was in the possession of the USPS on March 10, 2003. Therefore, the petition is **granted**. In the future, petitioner should take steps to receive an express mail label with a clear date-in, and not rely solely on possible database results.[1] If the Office receives a label with an omitted or illegible date-in, the Office will give the application a filing date of the date the package is received, unless a petition is filed. A petition involves additional work by petitioner and the Office, and also delays prosecution of the application into a patent.

Since relief has been granted under 37 CFR 1.10, a petition fee has not been charged to petitioner's deposit account.

---

[1] Paragraph (b) of 37 CFR 1.10 provides,

> Correspondence should be deposited directly with an employee of the USPS to ensure that the person depositing the correspondence receives a legible copy of the "Express Mail" mailing label with the "date-in" clearly marked. Persons dealing indirectly with the employees of the USPS (such as by deposit in an "Express Mail" drop box) do so at the risk of not receiving a copy of the "Express Mail" mailing label with the desired "date-in" clearly marked.

The file is now being forwarded to the Office of Initial Patent Examination to accord the application a filing date of March 10, 2003.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

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UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
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FROM DIRECTORS OFFICE

JUL 12 2005

TECHNOLOGY CENTER 3600

John C. Smith, ESQ.
4800 North Federal Highway
Suite A-207
Boca Raton, FL 33431

In re application of
Myron E. Irgang et al.
Application No. 10/384,826 :
Filed: March 10, 2003 :
For: PLASTIC MOLDING FOR INGROUND SWIMMING POOL :

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on January 06, 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**.

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 there is no evidence in the file that the attorney signing the request ever actually had power in this case.

Kenneth J. Dorner
Special Programs Examiner
Patent Technology Center 3600
(571) 272-6587

KJD/slb: 06/16/05

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : August 3, 2007

TO SPE OF : ART UNIT 1624

SUBJECT : Request for Certificate of Correction for Appl. No./10/384837patent no.7019137

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: _____

JAMES O. WILSON
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

SPE

1624
Art Unit

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LAW OFFICE OF MONICA H CHOI
P O BOX 3424
DUBLIN OH 43016-0204

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OFFICE OF PETITIONS

In re Application of
Jiang Li et al.
Application No. 10/384,856
Filed: March 10, 2003
Attorney Docket Number: **02-32**

ON PETITION

This is a decision on the petition filed March 16, 2006 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition under 37 CFR 1.137 (b) is **GRANTED**.

This application became abandoned November 7, 2005 for failure to timely pay the issue fee on or before November 4, 2005. Accordingly, a Notice of Abandonment was mailed March 1, 2006.

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
Senior Petitions Attorney
Office of Petitions

---

[1]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 4

Henry W. Cummings
3313 W. Adams Street
St. Charles, MO 63301

COPY MAILED

OCT 15 2003

OFFICE OF PETITIONS

In re Application of Gregory James Rau Application No. 10/384,865 Filed: March 11, 2003 Attorney Docket No. GJR-1	DECISION GRANTING PETITION

This is a decision on the petition filed July 31, 2003, requesting that the above-identified application be accorded a filing date of March 11, 2003, with pages 1-6 of the specification as part of the original disclosure.

On March 11, 2003, applicant filed the above-identified application. On May 21, 2003, the Office of Initial Patent Examination mailed a Notice to File Corrected Application Papers, stating that the application had been accorded a filing date of March 11, 2003, and advising applicant that pages 1-6 of the specification appeared to have been omitted. Additionally, the Notice required replacement drawings in compliance with 37 CFR 1.84 and 37 CFR 1.121 and an abstract.

In response, on July 31, 2003, applicant filed the present petition, a copy of pages 1-6 of the specification, an abstract, and corrected drawings.

Upon review of the record, pages 1-6 of the specification, filed on March 11, 2003, have been located among the application papers. Therefore, the application, including pages 1-6 of the specification, was complete on filing and will be granted a filing date of March 11, 2003.

Accordingly, the petition is granted. The requirement for submission of omitted pages 1-6 of the specification was sent in error and is hereby withdrawn. The $130.00 petition fee will be refunded by treasury check.

The application file is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of March 11, 2003, using pages 1-6 of the specification submitted on filing, and for a determination if the corrected drawings are in compliance with 37 CFR 1.84.

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

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/384,875	03/07/2003	Robert F. Snapp	3829P2614	2691

27357 7590 09/02/2005

BRADLEY K. DESANDRO
LEE & HAYES, PLLC
421 WEST RIVERSIDE, SUITE 500
SPOKANE, WA 99201

EXAMINER
RAYYAN, SUSAN F

ART UNIT	PAPER NUMBER
2177	

DATE MAILED: 09/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. SNAPP ET AL.	:	
Issue Date: April 20, 2004	:	**DECISION GRANTING**
Appl No.: 10/384,875	:	**PETITION**
Filed: March 07, 2003	:	*37 CFR 1.324*
For: Weiss, Moy & Harris, P.C.	:	
4204 N. Brown Avenue	:	
Scottsdale, AZ 85251	:	
	:	

This is a decision on the petition filed March 28, 2005 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.

John E. Breene

John Breene
Supervisory Patent Examiner
Art Unit 2167
Technology Center 2167

BRADLEY K. DESANDRO
LEE & HAYES, PLLC
421 WEST RIVERSIDE, SUITE 500
SPOKANE, WA 99201

Approved for use through 04/30/2009. 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)
6725243	2004-04-20	10/384,875	2003-03-07	38494-00190

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	/Jeffrey L. Weiss/	Date (YYYY-MM-DD)	2008-09-10
Name	Jeffrey L. Weiss	Registration Number	45207

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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In re Patent No. 6725243
Issue Date: April 20,2004
Application No. 10384875
Filed: March 7,2003
Attorney Docket No. 3829P2614

:

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

:

This is a decision on the electronic petition, filed September 10,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 10,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C
ATTN: PATENT INTAKE CUSTOMER NO. 64046
ONE FINANCIAL CENTER
BOSTON MA 02111

COPY MAILED

JUL 21 2008

OFFICE OF PETITIONS

In re Application of	:	
Fields et al.	:	DECISION ON APPLICATION
Application No. 10/384,899	:	FOR
Filed: March 6, 2003	:	PATENT TERM ADJUSTMENT
Atty Docket No. 37529-507001(116)	:	

This is a decision on the "PETITION FOR PATENT TERM ADJUSTMENT PURSUANT TO 37 CFR §1.705(b)," filed December 13, 2007. Applicants request that the initial Determination of Patent Term Adjustment under 35 U.S.C. 154(b) be corrected from 574 days to 602 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 **602 days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On September 17, 2007, the Office mailed a Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. Applicants were advised that the patent term adjustment to date is 574 days. In response, applicants timely[1] filed the instant request for reconsideration of the patent term adjustment.

[1] Office records indicate that the issue fee payment was received on December 13, 2007.

Applicants request that the patent term adjustment be corrected to 602 days. Applicants dispute the reduction pursuant to 37 CFR 1.704(b) of 28 days on the ground that they did not fail to engage in reasonable efforts to conclude prosecution of the application.

The application history has been reviewed and it has been determined that the initial patent term adjustment of 574 days is incorrect. The Office mailed an Office action under 35 U.S.C 1.132 on September 22, 2006; however, the Office action was not mailed to the correct correspondence address ~~of record~~. The record reveals that on December 15, 2004, applicants filed a Revocation and New Power of Attorney and a Change of Correspondence Address associated with Customer No. 20986; however, the Office did not the enter the appointment of the new power of attorney or the change of correspondence address before mailing the Office action on September 22, 2006. Accordingly, a letter restarting the period for reply (and re-mailing the Office action) was mailed to the correct correspondence address on November 6, 2006, within four months after the date of the filing of applicants' reply on July 12, 2006. Applicants' response filed January 19, 2007, was received within three months after the date of the mailing of the Office action as re-mailed on November 6, 2006. Accordingly, a period of reduction of 28 days is not warranted and is being removed.

In view thereof, the correct patent term adjustment at the time of the mailing of the notice of allowance is **602 days**.

The Office acknowledges receipt of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fee is 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 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 matter should be directed to Christina Tartera Donnell, Senior Petitions Attorney, at (571) 272-3211.

Kery A Fries

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of updated PAIR screen

Day : Sunday
Date: 7/20/2008

PALM INTRANET

Time: 10:31:16

PTA Calculations for Application: 10/384899			
Application Filing Date:	03/06/2003	PTO Delay (PTO):	698
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	124
Post-Issue Petitions:	0	Total PTA (days):	602
PTO Delay Adjustment:	28		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
91	07/20/2008	ADJUSTMENT OF PTA CALCULATION BY PTO	28		
72	09/17/2007	MAIL NOTICE OF ALLOWANCE			
71	09/13/2007	ISSUE REVISION COMPLETED			
70	09/13/2007	DOCUMENT VERIFICATION			
69	09/13/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
68	09/13/2007	NOTICE OF ALLOWABILITY			
67	06/21/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
66	08/31/2007	DATE FORWARDED TO EXAMINER			
65	08/29/2007	AMENDMENT AFTER FINAL REJECTION		41	49
64	08/29/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
63	06/21/2007	REFERENCE CAPTURE ON IDS			
62	06/21/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
61	06/21/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
60	06/26/2003	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
59	06/26/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
58	11/18/2003	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
57	11/18/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
56	06/23/2003	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
		INFORMATION DISCLOSURE STATEMENT (IDS)			

55	06/23/2003	FILED			
54	06/24/2003	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
53	06/24/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
52	10/03/2003	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
51	10/03/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
50	05/01/2007	CASE DOCKETED TO EXAMINER IN GAU			
49	04/19/2007	MAIL FINAL REJECTION (PTOL - 326)			
48	04/16/2007	FINAL REJECTION			
47	12/06/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
46	01/30/2007	DATE FORWARDED TO EXAMINER			
45	01/19/2007	RESPONSE AFTER NON-FINAL ACTION		28	37
44	12/06/2006	REFERENCE CAPTURE ON IDS			
43.7	12/06/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
43	12/06/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
42	11/06/2006	MAIL NOTICE OF RESTARTED RESPONSE PERIOD			
41	11/03/2006	LETTER RESTARTING PERIOD FOR RESPONSE (I.E. LETTER RE: REFERENCES)			
40	11/03/2006	CORRESPONDENCE ADDRESS CHANGE			
39	11/06/2006	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
38	10/05/2006	CASE DOCKETED TO EXAMINER IN GAU			
37	09/22/2006	MAIL NON-FINAL REJECTION			
36	09/18/2006	NON-FINAL REJECTION			
35	07/20/2006	DATE FORWARDED TO EXAMINER			
34	07/12/2006	RESPONSE TO ELECTION / RESTRICTION FILED		55	31
33	06/12/2006	MAIL NOTICE OF INFORMAL OR NON-RESPONSIVE AMENDMENT			
32	06/10/2006	DATE FORWARDED TO EXAMINER			
31.1	05/18/2006	INFORMAL OR NON-RESPONSIVE AMENDMENT AFTER EXAMINER ACTION			
31	05/18/2006	RESPONSE TO ELECTION / RESTRICTION FILED			
30	05/18/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			

29	04/04/2006	MAIL RESTRICTION REQUIREMENT	698		-1
28	04/03/2006	REQUIREMENT FOR RESTRICTION / ELECTION			
27	01/08/2006	CASE DOCKETED TO EXAMINER IN GAU			
26.7	12/10/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
26	12/10/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
25	01/07/2005	CORRESPONDENCE ADDRESS CHANGE			
24	06/24/2004	CORRESPONDENCE ADDRESS CHANGE			
23	05/04/2004	REFERENCE CAPTURE ON IDS			
22.7	05/04/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
22	05/04/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
21	04/28/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
20	04/21/2004	CASE DOCKETED TO EXAMINER IN GAU			
19	05/13/2003	CLAIMS PTO			
18	05/13/2003	PRELIMINARY AMENDMENT			
17	12/21/2003	CORRESPONDENCE ADDRESS CHANGE			
16	12/12/2003	CORRESPONDENCE ADDRESS CHANGE			
15	09/03/2003	APPLICATION RETURN FROM OIPE			
14	09/04/2003	APPLICATION IS NOW COMPLETE			
13	09/03/2003	APPLICATION RETURN TO OIPE			
12	09/03/2003	APPLICATION DISPATCHED FROM OIPE			
11	09/03/2003	APPLICATION IS NOW COMPLETE			
10	06/18/2003	ADDITIONAL APPLICATION FILING FEES			
9	03/06/2003	CLAIM PRELIMINARY AMENDMENT			
8	06/18/2003	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
7	06/18/2003	APPLICANT HAS SUBMITTED NEW DRAWINGS TO CORRECT CORRECTED PAPERS PROBLEMS			
6	06/03/2003	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
5	06/03/2003	CORRESPONDENCE ADDRESS CHANGE			
4	06/03/2003	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
3	04/26/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
2	03/26/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			

1	03/06/2003	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

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JUN 17 2005

HELLER EHRMAN LLP
275 MIDDLEFIELD ROAD
MENLO PARK CA 94025-3506

In re Application of	:
Eric B. Kmiec et al	:
Serial No.: 10/384,918	: WITHDRAWAL OF ATTORNEY
Filed: March 7, 2003	:
Attorney Docket No.: 41428-0113	:

This is in response to an attorney's request, filed April 14, 2005, to withdraw from representation in the above identified application.

The request is signed by Daniel M. Becker, Registration No. 38,376. While Mr. Becker originally held Power of Attorney in this application, that power was revoked when a new Power of Attorney, appointing the practitioners of Customer No. 25213 as attorneys of record. Mr. Becker is not listed among the practitioners associated with Customer No. 25213 and therefor cannot authorize a Withdrawal of Attorney and Change of Correspondence Address. (See attachments.)

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, 571-273-8300

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

Cc:
BECKER,DANIEL
Dechert LLP
1117 California Avenue
Palo Alto, CA 94304

RECEIVED
APR 14 2005

PTO/SB/83 (09-03)
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 contains a valid OMB control number.

REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS

Application Number	10/384,918
Filing Date	March 7,2003
First Named Inventor	Eric B. Kmiec
Art Unit	1637
Examiner Name	Spiegler, Alexander H.
Attorney Docket Number	41428-0113

To: Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Not Approved

Please withdraw me as attorney or agent for the above identified patent application

☑ 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

NOTE: This box can only be checked when the power of attorney of record in the application includes practitioners associated with a customer number.

WILLIAM R. DIXON, JR.
SPECIAL PROGRAM EXAMINER

The reasons for this request are: Client requested transfer of responsibility for application to new counsel

CORRESPONDENCE ADDRESS

1. ☐ The correspondence address is NOT affected by this withdrawal.

2. ☑ Change the correspondence address and direct all future correspondence to:

☐ Customer Number:

OR

☑ Firm or Individual Name	Basil S. Krikelis, McCarter & English LLP				
Address	919 N. Market Street, Suite 1800				
Address	P.O. Box 111				
City	Wilmington	State	DE	ZIP	19899
Country	United States of America				
Telephone	302-984-6300	Fax	302-984-6399		

Name	Daniel M. Becker		
Signature		Registration No.	38,376
Date	April 14, 2005	Telephone	650-324-7014

NOTE: Withdrawal is effective when approved rather than when received. Unless there are at least 30 days between approval of withdrawal and the expiration date of a time period for response or possible extension period, the request to withdraw is normally disapproved.

This collection of information is required by 37 C.F.R. 1.36. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 C.F.R. 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions by reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

SV 2114774 v1 4/14/05 9:12 AM (41428.0001)

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POWER OF ATTORNEY and CORRESPONDENCE ADDRESS INDICATION FORM

Application Number	10/384,918
Filing Date	03/07/2003
First Named Inventor	Eric B. Kmiec
Title	Methods, Compositions, and Kits for Delivering Oligonucleotide-Modified Nucleic Acid Sequence Alteration Using Compositions Comprising...
Art Unit	1637
Examiner Name	Spiegler, Alexander H.
Attorney Docket Number	41428-0113 US

I hereby appoint:

☑ Practitioners associated with the Customer Number: 25213

OR

☐ Practitioner(s) named below:

Name	Registration Number

as my/our attorney(s) or agent(s) to prosecute the application identified above, and to transact all business in the United States Patent and Trademark Office connected therewith.

Please recognize or change the correspondence address for the above-identified application to:

☑ The address associated with the above-mentioned Customer Number:

OR

☐ The address associated with Customer Number:

OR

☐ Firm or Individual Name					
Address					
Address					
City		State		Zip	
Country					
Telephone		Fax			

I am the:

☐ Applicant/Inventor.

☑ Assignee of record of the entire interest. See 37 CFR 3.71.
Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)

SIGNATURE of Applicant or Assignee of Record (if assignee, put name, title and company name in the "Name" space below)

Name	University of Delaware, by T.W. Fraser Russell, Vice Provost for Research		
Signature	Taf Russell		
Date	10/15/04	Telephone	302.831.2136

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☑ *Total of 1 forms are submitted.

This collection of information is required by 37 CFR 1.31 and 1.33. 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 3 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/384,918	03/07/2003	Eric B. Kmiec	NaPro-13

CONFIRMATION NO. 2002

OC000000014193045

25213
HELLER EHRMAN WHITE & MCAULIFFE LLP
275 MIDDLEFIELD ROAD
MENLO PARK, CA 94025-3506

Date Mailed: 10/26/2004

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/18/2004.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

KATRINA S TURNER
1600 (571) 272-0564

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United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/384,918	03/07/2003	Eric B. Kmiec	NaPro-13

CONFIRMATION NO. 2002

OC000000014193036

Daniel M. Becker
c/o FISH & NEAVE
1251 Avenue of the Americas
New York, NY 10020-1104

Date Mailed: 10/26/2004

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/18/2004.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

KATRINA S TURNER
1600 (571) 272-0564

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NEEDLE & ROSENBERG, P.C.
SUITE 1000
999 PEACHTREE STREET
ATLANTA, GA 30309-3915

MAILED
MAY 1 2 2005
Technology Center 2100

In re Application of: JUDGE, et al.
Application No. 10/384,924
Filed: March 6, 2003
For: SYSTEMS AND METHODS FOR SECURE COMMUNICATION DELIVERY

DECISION ON PETITION TO MAKE SPECIAL UNDER M.P.E.P.§708.02(II): INFRINGEMENT

This is a decision on the petition filed September 24, 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 **DISMISSED**.

A grantable petition under 37 C.F.R. 1.102(d), and M.P.E.P. §708.02, Section II, must be accompanied by payment of the fee under 37 C.F.R. 1.17(h) and a statement under 37 C.F.R. 1.102 by the applicant or assignee or statements by an attorney/agent registered to practice before the Patent and Trademark Office that:

(a) there is an infringing device or product actually on the market or method in use;

(b) a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and

(c) he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art. Applicant must provide **one copy** of each of the **references deemed most closely related** to the subject matter encompassed by the claims [*emphasis added*].

Applicant's submission is deficient because references deemed most closely related to the subject matter encompassed by the claims have not been identified. The petition indicates that each of the references resulting from the pre-examination search was listed on an Information

Disclosure Statement previously submitted. However, there was no indication in the petition which of the art is most closely related to the subject matter encompassed by the claims.

Accordingly, the Petition to Make Special is **DISMISSED**.

Note, the heading of the petition erroneously refers to the provisions of MPEP §708.2. In the future, the correct provisions to petition under is MPEP §708.02ii.

Petitioner is given one opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted by a declaration or statement providing the information as outlined above.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

Brian L. Johnson
Special Program Examiner 4/19/05
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

SDL: 04/22/05

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KIRKPATRICK & LOCKHART NICHOLSON GRAHAM LLP
535 SMITHFIELD STREET
PITTSBURGH PA 15222

Paper No 13

In re Application of
PRICE, ALISTAIR J.
Appl. No.: 10/384,939
Filed: March 10, 2003
For: **OPTICAL TRANSMISSION SYSTEMS, OPTICAL RECEIVERS AND RECEIVING METHODS**

DECISION ON PETITION UNDER 37 CFR 1.59

MAIL

JUN 0 9 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

This is a decision on the petition under 37 CFR 1.59(b), filed September 30, 2004 to expunge information from the above identified application.

The petition is **Granted**.

Petitioner requests that page 14 of the substitute specification filed May 13, 2004, be expunged from the record. Petitioner states that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR 1.17(h) has been paid.

There was a question as to the adequacy of the certification statement. Therefore, applicants filed an RCE with a submission replacement of the IDS.

Applicant is required to retain the expunged material(s) for the life of any patent which issues on the above-identified application.

The expunged material (page 14 of the substitute specification is returned herewith. It is noted that the substitute specification was indicated as "Do Not Enter" by the examiner. As a result the substitute specification has not been entered.

Kenneth A. Wieder
Special Programs Examiner
Technology Center 2600
Communications

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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EDWARD D. MANZO
COOK, ALEX, MCFARRON, MANZO,
CUMMINGS & MEHLER, LTD.
200 WEST ADAMS ST., STE. 2850
CHICAGO IL 60606

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JUN 13 2005

OFFICE OF PETITIONS

In re Application of :
Yoshiharu Hirakata et al :
Application No. 10/384,943 : ON PETITION
Filed: March 10, 2003 :
Attorney Docket No. 0553-0115.03 :

This is a decision on the petition, filed June 10, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on March 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) 272-3208.

The examiner of Technology Center AU 2871 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. _____

Date : June 13, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Yoshiharu Hirakata et al
Application No. :10/384,943
Filed :March 10, 2003

The above-identified application has been assigned Patent No. 6,912,032 and an issue date of June 28, 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 June 28, 2005:

"All reference to Patent No. 6,912,032 to Yoshiharu Hirakata et al of Japan for LIQUID CRYSTAL DISPLAY DEVICE appearing in the Official Gazette of June 28, 2005 should be deleted since no patent was granted."

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Paul Harrison, MDW-4B03, (FAX-273-5468
Deneise Boyd, MDE-3D39 (FAX-273-5124)
Mary Louise McAskill, ST-8C15 (FAX 305-4372)
Niomi Farmer, ST-8C14 (FAX-305-4372)
Mary E. Johnson (Cookie), MDE-7C71 (FAX 273-0038)
Duane Davis P/OPC MDE-7D89
Tamara Greene, ST-8C13

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Commissioner for Patents
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COOK ALEX McFARRON MANZO
CUMMINGS & MEHLER LTD.
200 WEST ADAMS STREET, SUITE 2850
CHICAGO, IL 60606

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NOV 23 2005

OFFICE OF PETITIONS

In re Application of	:
Yoshiharu Hirakata et al	:
Application No. 10/384,943	: DECISION GRANTING PETITION
Filed: March 10, 2003	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 0553-0115.03	:

This is a decision on the petition, filed November 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 November 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 2871 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b) (along with any balance due at the time of payment), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* **must** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

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MARK R. WISNER
WISNER & ASSOCIATES
1177 WEST LOOP SOUTH
SUITE 400
HOUSTON, TX 77027

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AUG 09 2007

OFFICE OF PETITIONS

In re Application of :
Hellene Hiner et al :
Application No. 10/384,965 : DECISION ON PETITION
Filed: March 10, 2003 :
Attorney Docket No. DORA,002 :

This is a decision on the petition under 37 CFR 1.137(b), filed December 8, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed February 9, 2006, which set a shortened statutory period for reply of three (3) months. A two (2) month extension of time was obtained under the provisions of 37 CFR 1.136(a). Accordingly, the application became abandoned on July 11, 2006 (July 9, 2006 was a Sunday). A Notice of Abandonment was mailed on October 23, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the required reply in the form of a request for continued examination, $395 filing fee, and submission as required by 37 CFR 1.114, (2) the petition fee of $750, and (3) a proper statement of unintentional delay. Accordingly, the failure to timely reply to the final Office action of February 9, 2006 is accepted as being unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg.

53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

This application is being referred to Technology Center AU 2837 for processing the request for continued examination and for appropriate action in the normal course of business on the submission under 37 CFR 1.114 received December 8, 2006.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

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COMMISSIONER FOR PATENTS
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Paper No. 11

MINTZ, LEVIN, COHN, FERRIS,
GLOVSKY AND POPEO, P.C.
ONE FINANCIAL CENTER
BOSTON MA 02111

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OCT 0 2 2003

OFFICE OF PETITIONS

In re Application of
Anderson, et al.
Application No. 10/384,974
Filed: March 10, 2003
Attorney Docket No. 15966-551CIP1CON1
(CURA-5CIP1CON1)
For: NOVEL POLYNUCLEOTIDES,
POLYPEPTIDES ENCODED THEREBY AND
METHODS OF USE THEREOF

: DECISION ACCORDING STATUS
: UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed September 8, 2003.

The petition is granted.

Petitioners have shown that the non-signing inventor, Elma Fernandes, has constructively refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the declaration of Nicole Carlucci, an employee of the former employer of Ms. Fernandes, establishes that the inventor was mailed the application papers, including the specification, claims and drawings, but the inventor failed to claim the package on several occasions. An independent search of LEXIS revealed that Ms. Fernandes is currently living at the address to which the application papers were mailed. 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 1600 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
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ELMA FERNANDES
77 FLORENCE ROAD
APARTMENT 2B
BRANFORD CT 06405

COPY MAILED

OCT 0 2 2003

OFFICE OF PETITIONS

In re Application of
Anderson, et al.
Application No. 10/384,974
Filed: March 10, 2003
Attorney Docket No. 15966-551CIP1
CON1 (CURA-5CIP1CON1)
For: NOVEL POLYNUCLEOTIDES,
POLYPEPTIDES ENCODED THEREBY
AND METHODS OF USE THEREOF

LETTER

Dear Ms. Fernandes:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703)308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703)308-9726 or 1(800)972-6382 (outside the Washington D.C. area).

Telephone inquiries regarding this communication should be directed to the undersigned at (703) 308-6712.

E Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

ATTORNEY OF RECORD: MINTZ, LEVIN, COHN, FERRIS,
GLOVSKY AND POPEO, P.C.
ONE FINANCIAL CENTER
BOSTON MA 02111

UNITED STATES PATENT AND TRADEMARK OFFICE

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KIRKPATRICK & LOCKHART NICHOLSON GRAHAM, LLP
535 SMITHFIELD STREET
PITTSBURGH, PA 15222

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JAN 1 4 2005

OFFICE OF PETITIONS

In re Application of: Thomas D. Stephens, et. al.	:	
Application No. 10/384,977	:	NOTICE
Filed: March 10, 2003	:	
Attorney Docket No. 030546CON	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This file is being referred to the Office of Publications, to await a response to the Notice of Allowance mailed December 17, 2004.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

MAR 16 2005

Commissioner for Patents
United States Patent and Trademark Office
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MAR 16 2005

OFFICE OF THE DIRECTOR
TC 3600

KIRKPATRICK & LOCKHARET NICHOLSON
GRAHAM LLP
535 Smithfield Street
Pittsburgh, PA 15222

In re Application of
Thomas D. Stephend et al
Application No. 10/384,977
Filed: March 10, 2003
For: OPTICAL TRANSMISSION SYSTEMS INCLUDING OPTICAL AMPLIFIERS AND METHODS OF USE THEREIN

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on applicants' petition to withdraw the holding of abandonment under 37 CFR 1.181, filed in the United States Patent and Trademark Office, on December 6, 2004.

The petition is **DISMISSED as MOOT**.

A review of the file reveals that a proper response to the non-final Office Action of February 2, 2004 was received by the Office on May 4, 2004. A Notice of Abandonment was mailed October 4, 2004 for failure to reply to the non-final Office Action of February 2, 2004. This notification was improper and the Office rescinded said notice on November 17, 2004. A Notice of Allowance was mailed December 17, 2004.

Steven N. Meyers
Special Program Examiner
Patent Technology Center 3600
(703) 308-3868

SNM/jwk: 3/9/05

UNITED STATES
PATENT AND
TRADEMARK OFFICE

Commissioner for Patents
Washington, DC 20231
www.uspto.gov

6/30/03

Marina F Cunningham
McCormick Paulding and Huber LLP
185 Asylum Street CityPlace II
Hartford CT 06103-3402

Dear Applicant:

The Box PGPub replacement drawings for application number 10/385,002 received on 5/19/03 by the U. S. Patent and Trademark Office will be included for patent publication.

Telephone inquiries should be directed to Customer Service, Office of Initial Patent Examination, at 703-308-1202.

UNITED STATES
PATENT AND
TRADEMARK OFFICE

Commissioner for Patents
Washington, DC 20231
www.uspto.gov

Signature of Reviewer, Office of Initial Patent Examination

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JUN 28 2005

BIOARRAY SOLUTIONS
35 TECHNOLOGY DRIVE
WARREN, NJ 07059

In re Application of	:	
Michael Seul et al	:	
Serial No.: 10/385,012	:	PETITION DECISION
Filed: March 10, 2003	:	
Attorney Docket No.: LEAPS –C8	:	

This is in response to the petition (titled as a request) under 37 CFR 1.181, filed March 29, 2005, requesting withdrawal of a properly filed RCE request..

It is noted that applicants filed the request to withdraw the RCE after a second telephone interview with the examiner when allowance of the application appeared possible (the first interview was not as encouraging). Subsequent thereto the examiner determined that the application was not in condition for allowance. Applicants then filed a second request with the examiner by telephone to ignore the request to withdraw the RCE papers. In view of the above and the examiner's mailing of a new Office action on May 17, 2005, based on the filing of the RCE papers, the request to withdraw the RCE papers is moot.

The petition is **DISMISSED**.

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.

George C. Elliott
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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BIOARRAY SOLUTIONS
35 TECHNOLOGY DRIVE
WARREN NJ 07059

COPY MAILED
OCT 17 2005
OFFICE OF PETITIONS

In re Application of	:	
Seul, et al.	:	
Application No. 10/385,012	:	ON PETITION
Filed: March 10, 2003	:	
Attorney Docket No. LEAPS –C8	:	

This is a decision on the papers styled, "Petition," filed August 11, 2005, which has been treated as a petition under 37 C.F.R. 1.182.

Petitioner states, "Applicant petitions in this matter to withdraw the two separate Terminal Disclaimer, made over Serial Nos. 10/424,662 and 10/645,426, respectively, filed in August, 2004..."

Petitioner has not provided any indication or reason as to why this is necessary.

As such, the petition is **dismissed** without prejudice to reconsideration. Petitioner should explain the necessity of the request and why this petition should be granted.

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 not permitted.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
Box 1450
Alexandria, VA 22313

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries should be directed to the undersigned at (571) 272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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ERIC P. MIRABEL
BIOARRY SOLUTIONS LLC
35 TECHNOLOGY DRIVE
WARREN, NJ 07059

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MAR 0 7 2007

OFFICE OF PETITIONS

In re Application of	:
Michael Suel	:
Application No. 10/385,012	: DECISION ON PETITION
Filing or 371(c) Date: 03/10/2003	: UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. LEAPS-C8	:

This is a decision on the petition under 37 CFR 1.78(a)(6), filed September 16, 2006, and supplemented with an amendment filed September 20, 0206, to accept an unintentionally delayed claim under 35 U.S.C. § 119 for the benefit of priority to the prior-filed provisional application set forth in the amendment filed with the present petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority 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 the expiration of the period specified in 37 CFR 1.78(a)(5)(ii). In addition, the petition under 37 CFR 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. § 119 and 37 CFR 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(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.

All the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119 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 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 and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed provisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Derek Woods at (571) 272-3232. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 1641 for appropriate action on the amendment filed September 20, 2006, in support of the petition, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 119 to the prior-filed application.

Christina T. Donnell

Christina T. Donnell
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/385,012	03/10/2003	1641	684	LEAPS-C8	13	26	2

CONFIRMATION NO. 4328

CORRECTED FILING RECEIPT

OC000000022657502

36038
ERIC P. MIRABEZ
BIOARRY SOLUTIONS LLC
35 TECHNOLOGY DRIVE
WARREN, NJ 07059

Date Mailed: 02/26/2007

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)

Michael Seul, Fanwood, NJ;

Power of Attorney:

Eric Mirabel--31211

Domestic Priority data as claimed by applicant

This application is a CON of 10/310,173 12/04/2002
which is a CON of 09/690,040 10/17/2000 PAT 6,797,524
which is a CON of 09/171,550 10/26/1998 PAT 6,251,691
which is a 371 of PCT/US97/08159 04/24/1997
which claims benefit of 60/016,642 04/25/1996

Foreign Applications

If Required, Foreign Filing License Granted: 05/13/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/385,012

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

ASSAY INVOLVING DETECTION AND IDENTIFICATION WITH ENCODED PARTICLES

Preliminary Class

435

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The

date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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BRINKS HOFER GILSON & LIONE
PO BOX 10395
CHICAGO IL 60610

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OCT 24 2006

OFFICE OF PETITIONS

In re Application of	:	
Stark et al.	:	
Application No. 10/385,036	:	DECISION ON PETITIONS
Filed: 10 March, 2003	:	UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. 11822/16	:	

This is a decision on the petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed on 16 June, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for benefit of priority to the prior-filed applications set forth in the concurrently filed amendment.

The petition is **DISMISSED AS MOOT**.

The petition is accompanied by an amendment to the first sentence of the specification following the title to include a reference to the prior-filed applications. While a reference to the prior-filed nonprovisional and provisional applications was not included in an Application Data Sheet (ADS) or in the first sentence of the specification following the title as required by the rules, a reference, nevertheless, was made in the transmittal letter filed with the application.

Where a claim for priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is not included in the first sentence of the specification or in an ADS but does appear either in the oath or declaration or a transmittal letter filed with the application and the Office notes the claim for priority, no petition will be required to accept a late claim for priority. This is because the application would have been scheduled for publication on the basis of the information concerning the claim submitted elsewhere in the application within the time period set forth in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). On the other hand, if the USPTO does not note the claim for priority to the prior-filed applications set forth in the oath or declaration or transmittal letter submitted with the application, a petition will be required to accept a late claim for priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6).[1] In the present case, the Office noted the claim for priority to the prior-filed applications in the transmittal letter filed with the application, as shown by their inclusion on the filing receipt.

[1] *Note* MPEP 201.11 (III)(D) and 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

In view of the above, the petition fee is unnecessary and has not been charged.

Any questions concerning this decision on petition may be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being referred to Technology Center AU 2155 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. §§ 120 and 119(e) to the prior-filed applications.

Frances Hicks

Frances Hicks
Lead Paralegal
Office of Petitions

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SOODABETH TRONSON
228 HAMILTON AVE., 3RD FLOOR
PALO ALTO, CA 94301

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OFFICE OF PETITIONS

In re Application of	:	
OBERLANDER	:	
Application No. 10/385,037	:	DECISION ON PETITION
Filed: March 10, 2003	:	TO WITHDRAW
Attorney Docket No. MO10-P0100.11	:	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 09, 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). While the reasons may be provided by referencing a specific portion of 37 CFR 10.40, the reasons must deal with actions by the client. The reasons set forth in the request, "termination of legal services," do not meet any conditions set forth in 37 CFR 1040.

All future communications from the Office will continue to be directed to the above-listed address until otherwise properly notified by the applicant.

There is no outstanding Office action that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6825.

Patricia Volpe
Petitions Examiner
Office of Petitions

cc: MICHAEL A. OBERLANDER
145 WINESTONE COURT
ALAMO, CA 94507

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SOODABETH TRONSON
228 HAMILTON AVENUE
3RD FLOOR
PALO ALTO, CA 94301

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MAR 2 2 2007

OFFICE OF PETITIONS

In re Application of
Michael A. Oberlander
Application No. 10/385,037
Filed: March 10, 2003
Attorney Docket No. MO10-P0100.11

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed January 24, 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 Soodabeh Tronson on behalf of all attorneys of record who are associated with this application.

All attorneys/agents associated with this application have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

There is an outstanding Office action mailed January 17, 2007 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: DR. MICHAEL A. OBERLANDER
145 WINESTONE COURT
ALAMO, CA 94507

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OCT 16 2006

OFFICE OF PETITIONS

Orum & Roth LLC
53 W. Jackson Boulevard
Chicago IL 60604-3606

In re Application of	:	
IWANO	:	
Application No. 10/385,040	:	DECISION ON PETITION
Filed: March 10, 2003	:	TO WITHDRAW
Attorney Docket No. 13407	:	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 16, 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 Catherine L. Gemrich.

Catherine L. Gemrich has been withdrawn as attorney or agent of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

There is no outstanding Office action that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Patricia Volpe at 571-272-6825.

David Bucci
Petitions Examiner
Office of Petitions

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Paper No. 5

Raafat M. Shaltout
McDonnell Boehnen Hulbert & Berghoff
32nd Floor
300 S. Wacker Drive
Chicago, IL 60606

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FEB 11 2004

OFFICE OF PETITIONS

In re Application of
Choate, Libke, Conn, and Peters
Application No.: 10/385,044
Filed: March 10, 2003
Attorney Docket No: 02-132-A
For: LAMINATE COMPOSITION

: DECISION ACCORDING
: RULE 47(a) STATUS

This is in response to the petition under 37 CFR 1.47(a), filed January 6, 2004.

The petition is **GRANTED**.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

The above-cited application was filed on March 10, 2003, and was not accompanied by a proper oath or declaration. A Notice to File Missing Parts of Nonprovisional Application was mailed on June 9, 2003, requiring an properly executed declaration and $130.00 surcharge. The notice allowed an extendable period for reply of two months from its mailing date. On January 6, 2004, the instant petition was filed along with a request for an extension of time within the fifth month and an oath or declaration.

Petitioner has shown that inventor Peters has constructively refused to join the filing of the above-identified application after having been presented with the application papers. The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This application will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries 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

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BACHMAN & LaPOINTE PC
900 CHAPEL STREET
SUITE 1201
NEW HAVEN, CT 06510

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MAR 0 8 2006

OFFICE OF PETITIONS

In re Application of	:	
Stefan Lutter	:	
Application No. 10/385,060	:	LETTER
Filed: March 10, 2003	:	
Attorney Docket No. 03-115	:	

This is in response to the communication dated October 6, 2005, which was received in the U.S. Patent and Trademark Office (USPTO) on October 11, 2005.

The communication requests that the USPTO accept the accompanying check in the amount of $700 to replace the balance of the issue fee which was erroneously refunded.

A review of the file record discloses that, at the time of submission of the issue fee payment on July 22, 2005, the issue fee in the amount of $1,400 was tendered, along with an indication on Part B- Fee(s) Transmittal Form that "Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2)." Despite this statement, the USPTO erroneously refunded one-half of the fee ($700) to applicant's deposit account. Accordingly, the $700 fee submitted will be accepted in place of the amount erroneously refunded to applicant.

In view of the statement that this application is no longer entitled to small entity status, this application has now been accorded large entity status. Accordingly, all future fees must be paid at the large entity rate until otherwise properly notified.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 4

ROPES & GRAY LLP
ONE INTERNATIONAL PLACE
BOSTON, MA 02110-2624

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OCT 2 7 2003

OFFICE OF PETITIONS

In re Application of :
Cohen et al. :
Application No.10/385,064 : DECISION ON PETITION
Filed: March 10, 2003 :
Title of Invention: :
PROTEIN-INDUCED MORPHOGENESIS :

This decision is in response to the Petition under 37 CFR 1.182, to change the inventor's name as listed on the above0identified patent application, filed on September 29, 2003.

A grantable petition under 37 CFR 1.182 requires (1) the petition fee; and (2) either (a) a declaration signed with both names with an explanation of how the change was effected (marriage, divorce, etc.); or (b) provide a certified copy of a court order for the name change.

Petitioner has complied with the above requirements.

The petition is hereby **granted**.

The name change of inventor Kuber T. Sampath has been entered and made of record.

The patent is being returned to the Office of Initial Patent Examination for further processing, and an indication that the oath or declaration filed with the application was fully executed when filed.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

Enclosure: Corrected Filing Receipt

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JUL 29 2008

OFFICE OF PETITIONS

Gibbons P.C.
One Gateway Center
Newark, NJ 07102

In re Application of
Terrence M. Dolak
Application No. 10/385,099
Filed: March 31, 2006
Attorney Docket No. 2006866-0051

DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed June 6, 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 R. Hain Swope Jarrell on behalf of all attorneys/agents associated with customer number 26345. All attorneys/agents associated with customer number 26345 have been withdrawn.

The correspondence address has been changed to the inventor and is copied below.

Applicant is reminded that there is no attorney of record at this time.

Telephone inquires concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Terence M. Dolak
27 Mountain View Drive
Andover, NJ 07821

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/385,099	03/10/2003	Terence M. Dolak	101963-40045 CIP 1

CONFIRMATION NO. 6871

POWER OF ATTORNEY NOTICE

26345
GIBBONS P.C.
ONE GATEWAY CENTER
NEWARK, NJ 07102

OC000000031243188

Date Mailed: 07/29/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/06/2008.

- 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.

/kainabinet/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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PAUL TENG
COOPER & DUNHAM LLP
1185 AVENUE OF THE AMERICAS
NEW YORK NY 10036

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SEP 2 6 2007

OFFICE OF PETITIONS

In re Application of
Takuro Sekiya
Application No. 10/385,105
Filed: March 10, 2003
Attorney Docket No.: 2271/59695A1

ON PETITION

This is a decision on the petition filed March 10, 2005 under 37 CFR 1.181 to withdraw the holding of abandonment for the above-identified application.

The petition under 37 CFR 1.181 is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181," or, as explained in more detail below, "...under 37 CFR 1.137(a)" or (b). This is not a final agency decision.

This application was held abandoned on November 26, 2004 and a Notice of Abandonment was mailed January 10, 2005 for the applicant's failure to timely pay the issue fee in response to the Notice of Allowance mailed August 25, 2004.

Petitioner asserts that in a telephonic interview, the Examiner of Record agreed to withdraw the Notice of Allowance.

Petitioner's arguments have been considered but are not persuasive. Petitioners are advised that by law a proper and timely response was required to the Notice of Allowance and that if there was a problem with the Notice of Allowability, petitioners could have filed an RCE. The failure to file a response caused the application to become abandoned not the failure of the USPTO to withdraw the Notice of Allowance.

Applicants are not afforded an opportunity to withhold a response to an office communication even based on a conversation and reliance upon that conversation with an office employee.

In view thereof, the holding of abandonment will not be withdrawn.

ALTERNATIVE VENUES

Petitioner may wish to consider filing a renewed petition under 37 CFR 1.137(a)[1] or 37 CFR 1.137(b),[2] which now provides that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b).

The filing of a petition under the unintentional standard cannot be intentionally delayed and therefore should be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

---

[1]A grantable petition under 37 CFR 1.137(a) must be accompanied by:

(1) the required reply, unless previously filed; In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(l);

(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

[2]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES 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 TENG
COOPER & DUNHAM LLP
1185 AVENUE OF THE AMERICAS
NEW YORK NY 10036

COPY MAILED

JAN 14 2008

OFFICE OF PETITIONS

In re Application of :
Takuro Sekiya :
Application No. 10/385,105 : ON PETITION
Filed: March 10, 2003 :
Attorney Docket No.: 2271/59695A1 :

This is a decision on the renewed petition filed November 26, 2007 under 37 CFR 1.181 to withdraw the holding of abandonment for the above-identified application.

The petition under 37 CFR 1.181 is **GRANTED**.

This application was held abandoned on November 26, 2004 and a Notice of Abandonment was mailed January 10, 2005 for the applicant's failure to timely pay the issue fee in response to the Notice of Allowance mailed August 25, 2004. Petitioner asserts that in a telephonic interview, the Examiner of Record agreed to withdraw the Notice of Allowance. A petition filed March 14, 2005 was dismissed in a decision mailed September 26, 2007.

Comes now petitioner with the instant renewed petition.

After second review, the Examiner of Record has determined that the Notice of Allowance should have been withdrawn and the application should not have been held abandoned. The Notice of Abandonment was sent in error and is hereby withdrawn. No petition fee is due and none has been charged.

This matter will be referred to Technology Center 2853 for further action as appropriate including withdrawing the Notice of Allowance mailed August 25, 2004.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3-20-06

TO SPE OF : ART UNIT 3753

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/385109 Patent No.: 6971403

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**.

Check claims

[signature]

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: The location of the correction is incorrect. Correct location is probably Column 14, claim 35, line 19

[signature] 3753 4.106

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Date Mailed : September 7,2007

Patent No. : 6,971,403
Patent Issued : December 6, 2005
Docket No. : LEG03 P-320

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s)1.322 .

The alleged error(s) The location of the correction is incorrect. Correct location is probably Column 14, claim 35, line 19. the patent is printed in accordance with the record . In view of the foregoing, your request, in this matter(s), is hereby denied.

Further consideration/reconsideration will be given upon receipt of a Request for Reconsideration under, under the provision of U.SC.254 or 255 (C.F.R. 1.322 or 1.323), accompanied by the appropriate response or fee of $100, which should be directed to Decisions & Certificates of Correction Branch.

Ennis Young
Legal Instrument Examiner
(703) 308-9390 ext.117

For Cecelia B. Newman, Supervisor
Decisions & Certificates of Correction Branch
(703) 308-9390 ext.102 or (703) 303-8309 (Receptionist)

UNITED STATES 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 0 5 2008

RATNER & PRESTIA- SB DIVISION
ONE WESTLAKES
SUITE 301
BERWYN PA 19482

In re Application of:	:
Jean-Louis Ruelle	: PETITION DECISION
Serial No.: 10/385,136	:
Filed: March 10, 2003	:
Attorney Docket No.: **GSKB-118US1**	

This is in response to the petition under 37 CFR § 1.181, filed August 1, 2008, requesting that the examiner issue a supplemental Form PTO-892.

BACKGROUND

Applicant points out that the examiner has not made of record two references relied upon in the Office action of December 31, 2007.

DISCUSSION

The petition and the file history have been carefully considered and applicant's points are well taken that the references have not been made of record.

DECISION

The petition is **GRANTED.**

A copy of Form PTO-892 with the references cited therein is attached.

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
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

RATNER & PRESTIA- SB DIVISION
P.O. BOX 980
VALLEY FORGE PA 19482

MAILED

JUL 09 2010

OFFICE OF PETITIONS

In re Patent No. 7,432,366
Issued: October 7, 2008
Application No. 10/385,136
Filed: March 10, 2003
Attorney Docket No. GSKB-118US1

: DECISION ON REQUEST
: FOR RECONSIDERATION
: OF PATENT TERM ADJUSTMENT
: AND
: NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION

This is a decision on the PETITION UNDER 37 C.F.R. §1.705 FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT filed on December 5, 2008, requesting that the patent term adjustment be corrected from 105 to 122 days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one hundred twenty-three (123) days is **GRANTED to the extent indicated herein**.

At the outset, patentees have miscalculated the total patent term adjustment. The period of examination delay, "A" delay", pursuant to 37 CFR 1.702(a)(1) is a total of 232 days (207 + 24 + 1), not 231 days. Applicant has failed to include the 1 day of examination delay for the period of August 30, 2007 to December 31, 2007 wherein under 37 C.F.R. § 1.702(a) the Office failed to take action within certain prescribed periods.

It is undisputed that the "B" delay period, the over three year period,begins on March 10, 2006 and ends on February 27, 2007 the day before the RCE was filed and is 354 days. Further, a Notice of Appeal was filed July 31, 2006, thus 212 days of the over three year period consumed by appellate review, beginning July 30, 2006 and ending on February 27, 2007 2008, is not included in the B delay. *See* 35 U.S.C. § 154(b)(1)(B)(ii). As such, the patent term adjustment is 123 days (207 + 24 + 1 plus 354 minus 212 minus 251 days applicant delay), not 122 days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) paid with the petition filed December 5, 2008. No additional fees are required.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or

patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one hundred twenty-three (123)** days.

Telephone inquiries specific 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

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,432,366 B2

DATED : October 7, 2008

INVENTOR(S) : Jean-Louis Ruelle

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 (105) days

Delete the phrase "by 105 days" and insert – by 123 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

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JUN 23 2009

OFFICE OF PETITIONS

MR. WALTER J. TENCZA JR.
SUITE 3
10 STATION PLACE
METUCHEN, NJ 08840

In re Patent No. 6,927,545 :
Issued: August 9, 2005 :
Application No. 10/385,144 : NOTICE
Filed: March 10, 2003 :
Atty Docket No. BELLIVEAU - 13 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED.**

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAY 01 2007

OFFICE OF PETITIONS

BEYER WEAVER LLP
P.O. BOX 70250
OAKLAND, CA 94612-0250

In re Application of	:
Thomas Lindquist	:
Application No. 10/385,150	: DECISION ON PETITION
Filed: March 10, 2003	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. IGTIP901C1X1C1	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed July 26, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed with the petition.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition does not satisfy item (1) above.

The amendment received with the petition on July 20, 2004 does not have a common inventor for Application Nos. 08/962,915 and 08/539,779. In order for an application to claim the benefit of a prior-filed copending nonprovisional application or international application designating the United States of America, each prior-filed application must name as an inventor at least one inventor named in the later-filed application and disclose the named inventor's invention claimed in at least one

claim of the later-filed application in the manner provided by the first paragraph of 35 U.S.C. 112. See MPEP 201.11 and 37 CFR § 1.78(a)(1).

It is further noted that the amendment references to 07/539,779 rather than 08/539,779.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Irvin Dingle at (571) 272-3210.

Frances Hicks

Frances Hicks
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
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NOV 05 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Banner & Witcoff, LTD.
Ten South Wacker Drive
Suite 3000
Chicago, IL 60606

In re application of	:	**DECISION ON PETITION**
Scott Johnston et al	:	**TO MAKE SPECIAL**
Application No. 10/385,152	:	**(ACCELERATED**
Filed: March 10, 2003	:	**EXAMINATION)**
For: DERIVATIVES TRADING METHODS THAT USE VARIABLE ORDER PRICE	:	

This is in response to the petition filed on May 17, 2004 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

The petition fails to adequately meet requirements (B), and (D) above. In this regard, item (B) is not met because the petition fails to include an election without traverse, or a statement that applicants are willing to elect without traverse should a restriction or election be required. Regarding item (D), applicants have discussed numerous references, including U.S. Patents, U.S. Patent Publications, and a number of articles and publications. However, after completing a review of the application file no copies of the above-noted references have been located.

For the above stated reasons, the petition is **DISMISSED**.

Petitioner is given one more opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted.

Applicant should promptly submit a renewed petition to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450. The envelope should indicate that the correspondence be brought to the attention of Technology Center 3600.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
(703) 308-2121

RAR/rwg: 10/27/04

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

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OFFICE OF THE DIRECTOR
TC 3600

Banner & Witcoff, LTD.
Ten South Wacker Drive
Suite 3000
Chicago, IL 60606

In re application of
Scott Johnston et al
Application No. 10/385,152
Filed: March 10, 2003
For: DERIVATIVES TRADING METHODS THAT USE VARIABLE ORDER PRICE

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION)

This is in response to the renewed petition filed on December 30, 2004 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02, VIII.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

It is noted that copies of the references have been provided. While this does meet the requirement set forth above for the granting of the Petition to Make Special for examination purposes and to be considered the above references should be provided in a submitted IDS.

Since all of the requirements for special status under MPEP § 708.02, VIII have been met, the petition is **GRANTED**.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(703) 308-0866

KJD/jwk: 01/24/05

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

AT

Paper No. 122004

MYERS BIGEL SIBLEY & SAJOVEC
P.O. Box 37428
Raleigh, NC 27627

JAN 11 2005

In re Application of:
LIN *et al.*
Serial No.: 10/385,155
Filed: March 10, 2003
Attorney Docket No.: **5646-94**

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the petition filed on September 30, 2004, under 37 C.F.R. § 1.181, to withdraw the holding of abandonment of the above-identified application. No fee is required.

The petition is **GRANTED.**

The application was held abandoned for failure to timely pay the issue fee in response to the Notice of Allowance and Issue Fee Due mailed on March 01, 2004. A Notice of Abandonment was mailed on September 24, 2004.

Petitioner asserts that the Notice of Allowability mailed on March 01, 2004 did not correctly set forth the claims that were allowed in the application file. The Notice indicated that claims 1-19 were allowed, when the application only contained claims 1-16. Petitioner further asserts that the Detailed Action accompanying the Notice of Allowability did not correspond to the subject matter of the above-identified application. Petitioner also states that the Examiner was contacted by telephone on May 27, 2004, to discuss the discrepancies. Petitioner asserts that the Examiner agreed to withdraw the Notice of Allowance.

A review of the written record reveals that on June 03, 2004, a Supplemental Notice of Allowability that corrected the discrepancy in the indication of allowed claims was mailed. In the Office action accompanying the Supplemental Notice of Allowability, the Examiner states that the Notice of Allowance mailed on March 01, 2004, is withdrawn. A further review of the written record; however, indicates that the previously mailed Notice of Allowance and Issue Fee Due was not withdrawn, and the statutory period for response was not reset with the mailing of the Supplemental Notice of Allowability, as the Examiner had stated would happen.

For the above stated reasons, the petition is granted. The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. Also, all previous Notice of Allowance and Issue Fee Due are hereby 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 Supplemental Notice of Allowability and for mailing a Notice of Allowance and Issue Fee Due. The 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.

James L. Dwyer, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20070108

DATE : January 8, 2007

TO SPE OF : ART UNIT 2872

SUBJECT : Request for Certificate of Correction on Patent No.: 7,145,739

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:

DREW A. DUNN
SUPERVISORY PATENT EXAMINER

SPE: Drew Dunn **Art Unit** 2872

UNITED STATES 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

NASA/MARSHALL SPACE FLIGHT CENTER
LSO1/Office of Chief Counsel
MSFC, AL 35812

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AUG 2 2 2003

OFFICE OF PETITIONS

In re Application of	:	
R. Jeffrey Ding	:	
Application No. 10/385,168	:	DECISION GRANTING PETITION
Filed: February 28, 2003	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. MFS-31559-1-DIV	:	

This is a decision on the petition filed June 20, 2003, under 37 CFR 1.137(f) which is being treated under the unintentional provisions of 37 CFR 1.137(b), to revive the instant nonprovisional application.

The petition is **GRANTED**.

Petitioner states that the instant non-provisional application is the subject of an application filed in a foreign country on November 21, 2002. However, the U. S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition must be accompanied by:

(1) the reply which is met by notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional.

The failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 USC 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 USC 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of November 27, 2003 accompanies this decision on petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-3475.

This application is being forwarded to Technology Center Art Unit 1725 for examination in due course.

Marianne E. Morgan
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. None

NASA/MARSHALL SPACE FLIGHT CENTER
LSO1/OFFICE OF CHIEF COUNSEL
MSFC AL 35812

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AUG 14 2005
OFFICE OF PETITIONS

In re Application of
R. Jeffrey Ding
Application No. 10/385,168
Filed: February 28, 2003
Attorney Docket Number: MFS-31559-1-DIV
Title: PHASE/MATRIX TRANSFORMATION WELD PROCESS AND APPARATUS

DECSION ON PETITION

This is a decision on the petition filed June 7, 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 file a proper response to the Restriction Requirement, mailed February 12, 2004, which set a shortened statutory period to reply for one (1) month. No extensions of time under the provisions of 37 CFR 1.136(a) were received. Accordingly, the above-identified application became abandoned on March 13, 2004. A Notice of abandonment was mailed on October 4, 2004.

With the present petition, Petitioner has submitted the petition fee, a statement of facts, and the response to the restriction requirement. It is noted that the response to the restriction requirement contains a certificate of facsimile transmission dated March 1, 2004.

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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.

As such, the petition under 37 C.F.R. 1.137(a) is **GRANTED**.

After this decision is mailed, Technology Center 1700 will be advised to consider the restriction requirement submitted with the present petition.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

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NASA/MARSHALL SPACE FLIGHT CENTER
LSO1/OFFICE OF CHIEF COUNSEL
MSFC AL 35812

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OCT 2 5 2007

OFFICE OF PETITIONS

In re Application of :
JEFFREY R. DING :
Application No. 10/385168 : ON PETITION
Filed: 02/28/2003 :
Attorney Docket No. MFS-31559-1-DIV :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 4, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of October 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). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 13, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE), the RCE fee and the submission required by 37 CFR 1.114; (2) the petition fee; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3211.

This application is being referred to Technology Center AU 1793 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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MICHAEL P. MORRIS
BOEHRINGER INGELHEIM CORPORATION
900 RIDGEBURY ROAD
P.O. BOX 368
RIDGEFIELD CT 06877-0368

In re Application of	:	
Helmut Bender et al	:	
Application No. 10/385,175	:	ON PETITION
Filed: March 10, 2003	:	
Attorney Docket No. 1/1310	:	

This is a decision on the petition, filed September 19, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 17, 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 1625 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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Davidson, Davidson & Kappel, LLC
485 7th Avenue
14th Floor
New York NY 10018

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OFFICE OF PETITIONS

In re Patent No. 6,967,594 :
Issue Date: November 22, 2005 :
Application No. 10/385,179 : ON PETITION
Filed: March 10, 2003 :
Attorney Docket No. 507.1002CIP :

This is a decision on the petition under 37 CFR 1.378(c), filed May 24, 2010, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

There is no indication that the person signing the petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of William C. Gehris appearing on the petition shall constitute a representation to the United States Patent and trademark Office that petitioner is authorized to represent the particular party on whose behalf he acts. If, Mr. Gehris desires to receive correspondence regarding this file, the appropriate power of attorney documents must be submitted.

The petition is **GRANTED**.

This patent expired at midnight November 22, 2009, for failure to pay the 3½ year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

A petition to accept the unintentionally delayed payment of a maintenance fee under 37 CFR 1.378(c) must be accompanied by (1) a statement that the delay was unintentional, (2) payment of the appropriate maintenance fee, unless previously submitted, and (3) payment of the surcharge set forth in 37 CFR 1.20(i)(2).

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that the delay in paying the maintenance fee under 37 CFR 1.378(c) was intentional, petitioner must notify the Office.

Accordingly, the maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571) 272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

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Commissioner for Patents
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THE ECLIPSE GROUP
10453 RAINTREE LANE
NORTHRIDGE, CA 91326

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OFFICE OF PETITIONS

In re Application of :
Lionel Jacques Garin, et al. :
Application No. 10/385,198 :
Filed: March 10, 2003 :
Attorney Docket No. ST00012C4 :

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed December 7, 2004, to revive the above-identified application.

The petition is **GRANTED.**

This is a decision on the petition, filed December 7, 2004, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. See 37 CFR 1.137(f).

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen months publication country on May 22, 2003. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen months publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

Any inquiries concerning this decision may be directed to Retta Williams at (571) 272-3229.

This application matter is being forwarded to Technology Center Art Unit 3661 for examination in due course.

Marianne Jenkins

Marianne Jenkins
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Paper No.: _____

DATE : 5/6/09

TO SPE OF : ART UNIT 2614

SUBJECT : Request for Certificate of Correction for Appl. No.: 10385204 Patent No.: 7460653 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.

- [x] **Approved** — All changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: _____

FAN TSANG
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

5/7/09

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EDWARDS & ANGELL LLP
P. O. BOX 55874
BOSTON, MA 02205

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OFFICE OF PETITIONS

In re Application of	:
Christin Frederick et al	:
Application No. 10/385,206	: DECISION ON PETITION
Filed: March 10, 2003	: UNDER 37 CFR 1.137(b)
Attorney Docket No. 56336 (70157)	:

This is a decision on the petition under 37 CFR 1.137(b), filed March 29, 2007, to revive the above-identified application.

The petition is **DISMISSED** as moot for the reason stated below.

The petition to revive is accompanied by a copy of a Notice to File Corrected Application Papers, mailed on February 27, 2007, which set a 60 day non-extendable period to correct the specification and drawings, which corrections were submitted with the petition to revive. A reply was due on or before April 30, 2007 (April 28, 2007, the due date, is a Saturday). Petitioner appears to be of the opinion that this application became abandoned for failure to timely reply to the February 27, 2007 Notice.

As the reply was not due until April 30, 2007, this application is not in fact abandoned. Accordingly, the petition to revive is dismissed as involving a moot issue.

As this application is not deemed to be abandoned, the fee of $750 submitted with the petition to revive is unnecessary and will be refunded to petitioner's deposit account in due course.

This application is being referred to Publishing Division for further processing.

Frances Hicks
Petitions Examiner
Office of Petitions
(571) 272-3218

UNITED STATES
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Commissioner for Patents
Washington, DC 20231
www.uspto.gov

7/11/03

Testa Hurwitz and Thibeault LLP
High Street Tower
125 High Street
Boston MA 02110

Dear Applicant:

The Box PGPub replacement drawings for application number 10/385,208 received on 6/11/03 by the U. S. Patent and Trademark Office will be included for patent publication.

Telephone inquiries should be directed to Customer Service, Office of Initial Patent Examination, at 703-308-1202.

UNITED STATES
PATENT AND
TRADEMARK OFFICE

Commissioner for Patents
Washington, DC 20231
www.uspto.gov

Signature of Reviewer, Office of Initial Patent Examination

UNITED STATES
PATENT AND
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Commissioner for Patents
Washington, DC 20231
www.uspto.gov

9/16/03

Testa Hurwitz and Thibeault LLP
High Street Tower
125 High Street
Boston MA 02110

Dear Applicant:

The Box PGPub replacement drawings for application number 10/385,209 received on 7/31/03 by the U. S. Patent and Trademark Office will be included for patent publication.

Telephone inquiries should be directed to Customer Service, Office of Initial Patent Examination, at 703-308-1202.

UNITED STATES
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TRADEMARK OFFICE

Commissioner for Patents
Washington, DC 20231
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Signature of Reviewer, Office of Initial Patent Examination

UNITED STATES PATENT AND TRADEMARK OFFICE

OCT 24 2006

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

KILLWORTH, GOTTMAN, HAGAN & SCHAEFF, L.L.P.
SUITE 500,
ONE DAYTON CENTRE,
DAYTON, OHIO 45402-2023

In re Application of	:
Richard R. Bott et al.	:
Serial No.: 10/385,213	: PETITION DECISION
Filed: March 10, 2003	:
Attorney Docket No.: DOC0056PA/35319.5	:

This is in response to the petition under 37 CFR §1.181, filed August 01, 2006, requesting review of the Examiners Answer mailed June 01, 2006 and to declare that the ground of rejection stated by the examiner is a new ground of rejection and that applicants are entitled to the options afforded by 37 CFR § 41.39(b).

BACKGROUND

A review of the file history shows that examiner mailed a restriction on December 14, 2004, in which a three-way restriction was made. Applicants responded on January 05, 2005 and elected Group I without traverse. The examiner mailed a non-final Office action on March 22, 2005, wherein the following rejections were made:

> Rejected claim19 under 35 U.S.C. 112, second paragraph
> Rejected the claims 1-2, 11-12, 14-17, 29-30, 36 and 38-40 under 35 U.S.C. 102(b) as being anticipated over Powell et al. US 6,060,546 A.
> Rejected claims 1, 2, 11, 12, 14 and 29 under 35 U.S.C. 102 (b) as being anticipated over Chien et al, US 4,053,580.
> Rejected claims 1-11, 13-14 and 29 under 35 U.S.C. 102(b) as being anticipated over EP 0281236 Aguadisch et al.
> Rejected claims 1-11, 21-29 and 31-32 under 35 U.S.C. 102(b) as being anticipated by Pfister et al US 5232702.
> Rejected claims 1-2, 11-20, 29-36 and 38-41 under 35 U.S.C. 103(a) as being unpatentable over Powell et al.

The examiner also acknowledged applicants' election without traverse and made the restriction final.

Applicants responded on June 23, 2005 with arguments, amendments to the claims and canceled claims 21 and 42 to 64.

The examiner mailed a final Office action on August 08, 2005 wherein the following actions were taken:

> Withdrew the rejection of claim 19 under 35 U.S.C. 112 second paragraph.
> Withdrew the rejection of claims 1, 2, 11, 12, 14-17, 29, 30, 36 and 38-40 under 35 U.S.C. 102 over Powell et al. US '546.
> Withdrew the rejection of claims 1-11, 13, 14 and 29 under 35 U.S.C. under 35 U.S.C. 102 over EP '236 Aguadisch et al.
> Withdrew the rejection of claims 1-11, 22-29, 31 and 32 under 35 U.S. C. 102 over Pfister et al. US '702.
> Maintained the rejection of claims 1, 2, 11, 12, 14 and 29 under 35 U.S.C. 102(b) as being anticipated by Chien et al (U.S. '580).
> Withdrew the rejection of claims 1, 2, 11-20, 29-36 and 38-41 under 35 U.S.C. 103 over Powell et al.
> Rejected claims 1-13, 22-29, 31 and 32 under 35 U.S.C. 103 over Chien et al in view of Pfister et. al.
> Rejected claims 1-20 and 22-41 under 35 U.S.C. 103(a) as being unpatentable over Chien et al and Pfister et al , further in view of Powell et al.

Applicants filed an amendment after final, on October 07, 2005, requesting entry of a new claim

The examiner mailed an advisory action on October 18, 2005 refusing the entry of the amendment as it added a new claim outside the scope of the elected group.

Applicants filed a second amendment after final on November 03, 2005, amending the claims and withdrawing the non-elected claims.

The examiner mailed a second advisory action on November 15, 2005 wherein the following action were taken:

> Withdrew the rejection of claims 1, 2, 11, 12, 14 and 29 under 35 U.S.C. 102(b) over Chien et al (U.S. '580).
> Maintained the rejection of claims 1-13, 22-29, 31 and 32 under 35 U.S.C. 103 over Chien et al in view of Pfister et al.
> Maintained the rejection of claims 1-20 and 22-41 under 35 U.S.C. 103(a) as being unpatentable over Chien et al and Pfister et al. , further in view of Powell et al.

Applicants filed a pre-appeal conference request on December 12, 2005.

A panel of examiners mailed a decision of the conference on January 20, 2006 wherein rejected claims 1-2 and 22-41 were rejected claims 42-64 were withdrawn.

In response the applicants filed an Appeal Brief on March 13, 2006.

The examiner mailed an Examiner's Answer on June 01, 2006 wherein the following actions were taken:

> Withdrew the rejection of claims 1-13, 22-29, 31 and 32 under 35 U.S.C. 103 over Chien et al in view of Pfister et. al.
> Maintained the rejection of claims 1-20 and 22-41 under 35 U.S.C. 103(a) as being unpatentable over Chien et al and Pfister et al , further in view of Powell et al. and added the Webster College II dictionary reference to clarify the definition of "topical" and "patch".

In response thereto, applicants filed this petition under 37 CFR §1.181, filed August 01, 2006, requesting review of the Examiner's Answer mailed June 01, 2006 and to declare that the ground of rejection stated by the examiner is a new ground of rejection.

DISCUSSION

Applicants argue that a new ground of rejection has been stated but not identified as such. Specifically, the examiner asserts at page 5 of the Examiner's Answer that reliance on the new reference does not constitute a new ground of rejection. Applicants strongly disagree and request that the ground of rejection with reliance upon an additional reference be designated as a new ground of rejection and that be afforded the options provided for in the rules (37 CFR §41.3903) to respond to such new grounds of rejection."

Applicants are correct. The examiner does conclude that Webster 's II New College Dictionary has been cited but that this is done to merely clarify the definition of "patch" and "topical" which are not clearly defined in the specification. See below.

> *Entries from Webster's II New College Dictionary (reference U) are cited solely as directly corresponding evidence to support the prior common knowledge finding, Le. the well-known, plain-language definitions of the words "topical" and "patch," which are not particularly defined in the specification as filed. The addition of these references does not result in a new issue or constitute a new ground of rejection (M.P.E.P. §§ 2144.03(D) and 1207.03(111)).*

Furthermore, M.P.E.P §1207.03 recites

> **III. SITUATIONS THAT ARE NOT CONSIDERED AS NEW GROUNDS OF REJECTION<**
>
> There is no new ground of rejection when the basic thrust of the rejection remains the same such that an appellant has been given a fair opportunity to react to the rejection. See *In re Kronig*, 539 F.2d 1300, 1302-03, 190 USPQ 425, 426-27 (CCPA 1976). Where the statutory basis for the rejection remains the same, and the evidence relied upon in support of the rejection remains the same, a change in the discussion of, or rationale in support of, the rejection does not necessarily constitute a new ground of rejection. *Id.* at 1303, 190 USPO at 427 (reliance upon fewer references in affirming a rejection under

Appellants' arguments in the appeal brief are drawn to the compositions for "topical " use. This argument occurs repeatedly. See the paragraph above "Grounds of rejections to be reviewed on Appeal" on page 3, and the last paragraph on page 11. Also, note on page 5, appellants' arguments for claim 1 that extensively argue about the "topical preparations".

It is considered that the examiner is justified to argue and clarify the definition of "topical" using the dictionary for it's meaning, as it is not defined in the specification. The entrance of the new reference for the definition of the terms in the specification, is also considered proper, especially since appellants argued this in the appeal brief. Finally, it is considered that the examiner has not added a new ground of rejection but merely clarified the terms in the specification.

DECISION

The petition is **DENIED.**

The application will be returned to the examiner for action in response to applicants' Reply brief filed on August 01, 2006.

Should there be any questions about this decision please contact Ms. Marianne Seidel, by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number 571-273-8300.

Bruce M. Kisliuk
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE

UNIVERSITY OF VIRGINIA PATENT FOUNDATION
250 WEST MAIN STREET, SUITE 300
CHARLOTTESVILLE VA 22902

In re Application of	:	
FELDER, ROBIN	:	
Application No. 10/385278	:	**DECISION ON PETITION**
Filed: March 10, 2003	:	
Attorney Docket No. **00190-04**	:	

This is a decision on the Petition To Withdraw Holding of Abandonment under 37 C.F.R. 1.181, received in the United States Patent and Trademark Office (USPTO) on August 31, 2006 for the above identified application.

The application was held abandoned for applicant's failure to timely pay the issue fee, as Required in the new Notice of Allowance and Fee(s) Due mailed April 20, 2006.

The petition is **DISMISSED.** Any request for reconsideration of the decision, or as explained Below, filing a petition seeking revival under 37 CFR 1.137, must be filed within TWO MONTHS (2) from the mail date of this decision.

The request to apply the issue fee to the new Notice could have been satisfied by simply Completing and returning the new Issue Fee Transmittal Form PTOL-85B.

Also, Petitioner appears to not have read the bold text in the new Notice of Allowance and Fee(s) Due, which states:

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THE STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE REFLECTS A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE APPLIED IN THE APPLICATION. THE PTOL-85B (OR AN EQUIVALENT) MUST BE RETURNED WITHIN THIS PERIOD EVEN IF NO FEE IS DUE OR THE APPLICATION WILL BE REGARDED AS ABANDONED.

Failure to submit the PTOL-85B, Fee(s) Transmittal resulted in the proper abandonment Of the application.

As previously advised the applicant may seek relief by filing a petition for Revival of Abandoned Application under CFR § 1.137 (a) or (b). (Forms are available at USPTO website http://www.uspto.gov)

- Under 37 CFR 1.137(a), a petition for the revival of an ***unavoidable*** abandoned application
- Under 37 CFR 1.137(b), a petition for the revival of an ***unintentionally*** abandoned application

Further inquires with respect to filing a petition under 37 CFR § 1.137 may be directed to the Office of Petitions at 571-272-3282 or addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
Office of Petitions
P O Box 1450
Alexandria, VA 22313-1450

Telephone inquires concerning this decision matter may be directed to the undersigned at 703 308-9250 Ext. 164.

Kendrick Spruill
Quality Operations Assistant
Office of the Director
Office of Patent Publications

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COMMISSIONER FOR PATENTS
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CHARLOTTESVILLE VA 22902

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In re Application of :
FELDER et al :
Application No.: 10/385,278 : DECISION ON PETITION
Filing Date: March 10, 2003 : UNDER 37 CFR 1.137(b)
Attorney Docket No.: 00190-04 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 3, 2006, to revive the above-identified application.

The petition is **DISMISSED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Allowance mailed April 20, 2006, which set a 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 July 20, 2006.

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 June 8, 1995.

The instant petition does not satisfy requirement (1) above. Specifically, the Notice of Allowance mailed April 20, 2006, stated that "THE PTOL-85B (OR AN EQUIVALENT) MUST BE RETURNED WITHIN THIS PERIOD EVEN IF NO FEE IS DUE OR THE APPLICATION WILL BE REGARDED AS ABANDONED." The PTOL-85B mailed April 20, 2006 still has not been returned.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)."

Further correspondence with respect to this matter should be addressed to:

Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

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

NOV 0 3 2006

PATENT
Attorney Docket No. 00190-04

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT:	Felder et al.	}	ART UNIT:	3652
SERIAL NO.	10/385,278	}	EXAMINER:	James W. Keenan
FILED:	March 10, 2003	}	CUSTOMER NO.	34444

TITLE: Robotic Pick Up and Delivery System

Certificate Under 37 CFR §1.8

I hereby certify that this correspondence is being sent via facsimile to 571-273-8300 under 37 C.F.R. §1.8 on the date indicated below and is addressed to Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450.

November 3, 2006

Sue Ann Carr

Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)

Mail Stop PETITION
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Decision on Petition mailed October 25, 2006, Applicant respectfully submits the petition fee (form PTO/SB/64 attached). While Applicant respectfully objects to the process surrounding the abandonment issue, Applicant submits this petition for purpose of expediting prosecution.

A Notice of Allowance and Fees Due was mailed on November 2, 2005 and paid on February 1, 2006. Accordingly, Applicant 1) filed the 'Fee Transmittal' sent via facsimile on February 1, 2006, and 2) received confirmation of receipt via 'Auto-Reply Facsimile Transmission.'

PAGE 2/11 * RCVD AT 11/3/2006 2:53:09 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-3/0 * DNIS:2738300 * CSID:434 924 2493 * DURATION (mm-ss):03-54

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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UNIVERSITY OF VIRGINIA PATENT FOUNDATION
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CHARLOTTESVILLE VA 22902

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OFFICE OF PETITIONS

In re Application of	:	
FELDER et al	:	
Application No.: 10/385,278	:	DECISION ON PETITION
Filing Date: March 10, 2003	:	UNDER 37 CFR 1.137(b)
Attorney Docket No.: 00190-04	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 9, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed April 20, 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 20, 2006.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the return of the PTOL-85B mailed April 20, 2006; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the return of the PTOL-85B mailed April 20, 2006 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

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Paper No. 10

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS MI 48303

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OFFICE OF PETITIONS

In re Application of
Vonnegut, Khazaee, Mohan, Bansbach & Miller
Application No.: 10/385,321
Filed: March 10, 2003
Attorney Docket No. 6978-000221/CPB
For: TORQUE TRANSFER CLUTCH WITH BALL SCREW ACTUATOR

DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the reconsideration petition under 37 CFR 1.47(a), filed November 7, 2003 (certificate of mailing date November 4, 2003).

The petition is granted.

Petitioners have established that the non-signing inventor, Mozaffar Khazaee, cannot be located. Specifically, the declaration of joint inventor Sankar K. Mohan establishes that despite contacting former employers and colleagues, placing calls to the non-signing inventor's last known telephone phone numbers, and attempting to reach the non-signing inventor at his last known address, the non-signing 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.

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 3600 for examination in due course.

Telephone inquiries should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS MI 48303

In re Application of
Vonnegut, Khazaee, Mohan, Bansbach & Miller
Application No.: 10/385,321
Filed: March 10, 2003
Attorney Docket No. 6978-000221/CPB
For: TORQUE TRANSFER CLUTCH WITH BALL SCREW ACTUATOR

DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed July 28, 2003 (certificate of mailing date July 24, 2003).

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

A grantable petition under 37 CFR 1.47(a) requires

(1) a petition including proof of the pertinent facts establishing that the joint inventor(s) refuses to join, or cannot be found or reached after diligent effort,
(2) a proper oath or Declaration executed by the available joint inventor(s),
(3) the fee of $130 as specified in 37 CFR § 1.17(h), and
(4) the last known address of the omitted inventor(s).

This petition lacks item (2) above.

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 still has not been presented. The declaration submitted with the instant petition was signed by four of five joint inventors. In addition, Sankar K. Mohan, a joint inventor, signed an addendum to the declaration on behalf of the non-signing inventor, Mozaffar Khazaee.

There are two problems with the declaration.

First, the format of the declaration is unacceptable. Each inventor is named on a separate sheet of paper without reference to the other inventors. The Declaration should set forth all of the joint inventors on the same page **OR** the pages of the declaration should be consecutively numbered -- i.e. 1/3, 2/3, 3/3 -- to ensure that each named inventor is aware of the other named inventors of the subject matter. See 37 CFR 1.63.

Second, the addendum is not acceptable. Only one inventor has signed for the non-signing inventor. All the signing inventors must act in concert on behalf of the non-signing inventor.

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The signing inventors must sign a new declaration for the application of behalf of themselves and on behalf on the non-signing inventor. The declaration will be acceptable if the signing inventors sign in their respective signature block **AND** (1) the signature block of the non-signing inventor is left blank **OR** (2) the signing inventors sign a document that states they are both signing on behalf of the non-signing inventor. Of course, information for all inventors must be listed on the declaration.

An oath or declaration in compliance with 37 CFR 1.63 and 1.64 signed by the Rule 1.47(a) applicants on behalf of Mr. Khazaee is REQUIRED. See MPEP 409.03(a).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By facsimile: (703) 308-6916
Attn: Office of Petitions

By hand: Office of Petitions
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA 22202

Telephone inquiries should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

Dr. Clifford B. Cordy Jr.
6402 Mae Anne #20
Reno NV 89523

In re Application of
Clifford Bernard Cordy
Application No. 10/385,360
Filed: March 11, 2003
Title: MORE AERODYNAMIC WHEEL FAIRINGS FOR SMALL AIRPLANES

DECISION ON PETITION
UNDER 37 C.F.R. §1.137(A)

This is a decision on the petition filed August 23, 2004, under 37 C.F.R. §1.137(a)[1], to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed December 17, 2003, which set a shortened statutory period for reply of three (3) months. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on March 18, 2004. A Notice of Abandonment was mailed August 11, 2004.

With the instant petition, Petitioner has submitted a response to the Office action of December 17, 2003, as well as the petition fee.

Petitioner has met requirements (1) and (2) above. The fourth requirement is not applicable.

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1 A grantable petition pursuant to 37 CFR 1.137(a) must be accompanied by:
(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(l);
(3) A showing to the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unavoidable;
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

As to item (3), the showing of record is not sufficient to establish to the satisfaction of the Commissioner that the delay was unavoidable within the meaning of 37 CFR 1.137(a).

The Commissioner is responsible for determining the standard for unavoidable delay and for applying that standard.

"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. The Commissioner's interpretation of those provisions is entitled to considerable deference."[2]

"[T]he Commissioner's discretion cannot remain wholly uncontrolled, if the facts **clearly** demonstrate that the applicant's delay in prosecuting the application was unavoidable, and that the Commissioner's adverse determination lacked **any** basis in reason or common sense."[3]

"The court's review of a Commissioner's decision is 'limited, however, to a determination of whether the agency finding was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law.'"[4]

"The scope of review under the arbitrary and capricious standard is narrow and a court is not to substitute its judgment for that of the agency."[5]

The standard

"[T]he question of whether an applicant's delay in prosecuting an application was unavoidable must be decided on a case-by-case basis, taking all of the facts and circumstances into account."[6] The general question asked by the Office is: "Did petitioner act as a reasonable and prudent person in relation to his most important business?"[7]

Nonawareness of a PTO rule will not constitute unavoidable delay[8]The burden of showing the cause of the delay is on the person seeking to revive the application[9].

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2 Rydeen v. Quigg, 748 F.Supp. 900, 904, 16 U.S.P.Q.2d (BNA) 1876 (D.D.C. 1990), aff'd without opinion (Rule 36), 937 F.2d 623 (Fed. Cir.1991) (citing Morganroth v. Quigg, 885 F.2d 843, 848, 12 U.S.P.Q.2d (BNA) 1125 (Fed. Cir. 1989); Ethicon, Inc. v. Quigg 849 F.2d 1422, 7 U.S.P.Q.2d (BNA 1152 (Fed. Cir. 1988) ("an agency's interpretation of a statute it administers is entitled to deference"); see also Chevron U.S.A. Inc. v. Natural Resources Defence 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.")

3 Commissariat A L'Energie Atomique et al. v. Watson, 274 F.2d 594, 597, 124 U.S.P.Q. (BNA) 126 (D.C. Cir. 1960) (emphasis added).

4 Haines v. Quigg, 673 F. Supp. 314, 316, 5 U.S.P.Q.2d (BNA) 1130 (N.D. Ind. 1987) (citing Camp v. Pitts, 411 U.S. 138, 93 S. Ct.1241, 1244 (1973) (citing 5 U.S.C. 706 (2)(A)); Beerly v. Dept. of Treasury, 768 F.2d 942, 945 (7th Cir. 1985); Smith v. Mossinghoff, 217 U.S. App. D.C. 27, 671 F.2d 533, 538 (D.C. Cir.1982)).

5 Ray v. Lehman, 55 F.3d 606, 608, 34 U.S.P.Q2d (BNA) 1786 (Fed. Cir. 1995) (citing Motor Vehicles Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co., 463 U.S. 29, 43, 77 L.Ed.2d 443, 103 S. Ct. 2856 (1983)).

6 Id.

7 See In re Mattulah, 38 App. D.C. 497 (D.C. Cir. 1912).

A delay caused by an applicant's lack of knowledge or improper application of the patent statute, rules of practice, or the MPEP is not rendered "unavoidable" due to either the applicant's reliance upon oral advice from USPTO employees or the USPTO's failure to advise the applicant to take corrective action[10].

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[11].

A petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable[12]."

The portions of the CFR and the MPEP relevant to the abandonment of this application

37 C.F.R. § 1.8 sets forth, in part:

> § 1.8 Certificate of mailing or transmission.
> (a) Except in the cases enumerated in paragraph (a)(2) of this section, correspondence required to be filed in the Patent and Trademark Office within a set period of time will be considered as being timely filed if the procedure described in this section is followed. The actual date of receipt will be used for all other purposes.
> (1) Correspondence will be considered as being timely filed if:
> (i) The correspondence is mailed or transmitted prior to expiration of the set period of time by being:
> (A) Addressed as set out in § 1.1(a) and deposited with the U.S. Postal Service with sufficient postage as first class mail; or
> (B) Transmitted by facsimile to the Patent and Trademark Office in accordance with § 1.6(d); and
> (ii) The correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The person signing the certificate should have reasonable basis to expect that the

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8 See Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (Fed. Cir. 1982) (citing Potter v. Dann, 201 U.S.P.Q. (BNA) 574 (D.D.C. 1978) for the proposition that counsel's nonawareness of PTO rules does not constitute "unavoidable" delay)). Although court decisions have only addressed the issue of lack of knowledge of an attorney, there is no reason to expect a different result due to lack of knowledge on the part of a pro se (one who prosecutes on his own) applicant. It would be inequitable for a court to determine that a client who spends his hard earned money on an attorney who happens not to know a specific rule should be held to a higher standard than a pro se applicant who makes (or is forced to make) the decision to file the application without the assistance of counsel.

9 Id.

10 See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985).

11 In re Mattullath, 38 App. D.C. at (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).

12 Haines, 673 F. Supp. at 314, 316-17; 5 USPQ2d at 1131-32.

correspondence would be mailed or transmitted on or before the date indicated.

(2) The procedure described in paragraph (a)(1) of this section does not apply to, and no benefit will be given to a Certificate of Mailing or Transmission on, the following:

(i) Relative to Patents and Patent Applications —

(A) The filing of a national patent application specification and drawing or other correspondence for the purpose of obtaining an application filing date, including a request for a continued prosecution application under §1.53(d);

(B) The filing of correspondence in an interference which an examiner-in-chief orders to be filed by hand or "Express Mail";

(C) The filing of agreements between parties to an interference under 35 U.S.C. 135(c);

(D) The filing of an international application for patent;

(E) The filing of correspondence in an international application before the U.S. Receiving Office, the U.S. International Searching Authority, or the U.S. International Preliminary Examining Authority;

(F) The filing of a copy of the international application and the basic national fee necessary to enter the national stage, as specified in §1.495(b).

.....

(b) In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the Patent and Trademark Office, and the application is held to be abandoned or the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Commissioner to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

(c) The Office may require additional evidence to determine if the correspondence was timely filed.

[41 FR 43721, Oct. 4, 1976; 43 FR 20461, May 11, 1978; para. (a). 47 FR 47381, Oct. 26, 1982, effective Oct. 26, 1982; para. (a),48 FR 2708, Jan. 20, 1983; para. (a) 49 FR 48416, Dec. 12, 1984, effective Feb. 11, 1985; para. (a), 49 FR 5171, Feb. 6, 1985, effective Mar. 8, 1985; 52 FR 20046, May 28, 1987; subparas. (a)(2)(xiv)-(xvi), 54 FR 37588, Sept. 11, 1989, effective Nov. 16, 1989; revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; para. (a) revised, 61 FR 56439, Nov. 1, 1996, effective Dec. 2, 1996; paras. (a)(2)(i)(A) & (b) revised; 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a)(2)(i)(F) revised, 67 FR 520, Jan. 4, 2002, effective Apr. 1, 2002]

Section 512 of the MPEP sets forth, in part:

Under 37 CFR 1.8, a person may state on certain papers directed to the Office (exceptions are stated in 37 CFR 1.8), the date on which the paper will be deposited in the United States Postal Service or transmitted by facsimile. If the date stated is within

the period for reply, the reply in most instances will be considered to be timely. This is true even if the paper does not actually reach the Office until after the end of the period for reply. The Certificate of Mailing procedure does not apply to papers mailed in a foreign country.

The Certificate of Transmission procedure, however, also applies to papers transmitted to the Office from a foreign country provided that the correspondence being transmitted is not prohibited from being transmitted by facsimile and is not otherwise precluded from receiving the benefits under 37 CFR 1.8.

It should be noted, however, that the Office will continue its normal practice of stamping the date of receipt ("Office Date" Stamp) on all papers received through the mail or by facsimile except those filed under 37 CFR 1.10 (See MPEP § 513). The date stamped will also be the date which is entered on Office records and from which any subsequent periods are calculated. For example, 37 CFR 1.192 gives an appellant 2 months from the date of the appeal to file an appeal brief. For example, if the last day to reply to a final rejection was November 10, 1997, and applicant deposited a Notice of Appeal with fee in the U.S. mail on November 10, 1997, and so certified, that appeal is timely even if it was not received in the U.S. Patent and Trademark Office until November 16, 1997. Since the date of receipt will be used to calculate the time at which the brief is due, the brief was due on January 16, 1998. This is 2 months after the Mail Center date.

37 CFR 1.8(a)(2)(i)(A) specifically refers to a request for a continued prosecution application (CPA) filed under 37 CFR 1.53(d) as a correspondence filed for the purposes of obtaining an application filing date and the procedures and benefit set forth in 37 CFR 1.8(a)(1) are not applicable to a request for a CPA. The date on a certificate of mailing or transmission (37 CFR 1.8(a)) of a CPA is not controlling or even relevant. A CPA filed by facsimile transmission will not be accorded a filing date as of the date on the certificate of transmission unless Office records indicate, or applicant otherwise establishes pursuant to 37 CFR 1.6(f), receipt in the Office of the complete CPA on the date on the certificate of transmission and that date is not a Saturday, Sunday, or Federal holiday within the District of Columbia.

[41 FR 43721, Oct. 4, 1976; 43 FR 20461, May 11, 1978; para. (a). 47 FR 47381, Oct. 26, 1982, effective Oct. 26, 1982; para. (a),48 FR 2708, Jan. 20, 1983; para. (a) 49 FR 48416, Dec. 12, 1984, effective Feb. 11, 1985; para. (a), 49 FR 5171, Feb. 6, 1985, effective Mar. 8, 1985; 52 FR 20046, May 28, 1987; subparas. (a)(2)(xiv)-(xvi), 54 FR 37588, Sept. 11, 1989, effective Nov. 16, 1989; revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; para. (a) revised, 61 FR 56439, Nov. 1, 1996, effective Dec. 2, 1996; paras. (a)(2)(i)(A) & (b) revised; 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a)(2)(i)(F) revised, 67 FR 520, Jan. 4, 2002, effective Apr. 1, 2002]

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.

37 C.F.R. § 1.134: Time period for reply to an Office action.

An Office action will notify the applicant of any non-statutory or shortened statutory time period set for reply to an Office action. Unless the applicant is notified in writing that a reply is required in less than six months, a maximum period of six months is allowed.

[47 FR 41276, Sept. 17, 1982, effective Oct. 1, 1982; revised, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997]

37 CFR §1.135: Abandonment for failure to reply within time period.

(a) If an applicant of a patent application fails to reply within the time period provided under § 1.134 and § 1.136, the application will become abandoned unless an Office action indicates otherwise.
(b) Prosecution of an application to save it from abandonment pursuant to paragraph (a) of this section must include such complete and proper reply as the condition of the application may require. The admission of, or refusal to admit, any amendment after final rejection or any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment.
(c) When reply by the applicant is a bona fide attempt to advance the application to final action, and is substantially a complete reply to the non-final Office action, but consideration of some matter or compliance with some requirement has been inadvertently omitted, applicant may be given a new time period for reply under § 1.134 to supply the omission.

Application of the standard to the current facts and circumstances

As stated above, a non-final Office action was mailed to the applicant on December 17, 2003. With the instant Petition, Petitioner sets forth that a response was sent to the Office on January 8, 2004. Petitioner has set forth that the computer files for both the response and the address for the envelope were last modified on this date, and that the letter itself is dated the same.

This argument is not persuasive.

The Patent Office file is the official record of the papers filed in this application. The official electronic file has been reviewed, and the response which was purportedly submitted on January 8, 2004 has not been located.

It is noted that Petitioner has submitted neither a postcard receipt to evince receipt of the drawings, nor a certificate of mailing pursuant to 37 C.F.R.§1.8 to establish that they were sent.

The PTO has a well established and well publicized practice of providing a receipt for papers filed in the PTO to any applicant desiring a receipt. The practice requires that any paper for which a receipt is desired be filed in the PTO with a self-addressed postcard identifying the paper. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO. See section 503, Manual Of Patent Examining Procedure (MPEP 503).

Similarly, the PTO has a well established and well publicized practice by which practitioners may provide proof that papers were submitted to the Office on a particular date. Any papers which are required to be filed in the PTO within a set period of time will be considered as being timely filed if a certificate of mailing is properly prepared and executed. See 37 C.F.R. §1.8.

Since Petitioner has submitted neither of these pieces of evidence, Petitioner has not established that the mailing was sent January 8, 2004, and the mailing was subsequently either lost before it reached the Office or misplaced within the Office. As such, Petitioner is not able to characterize the abandonment as "unavoidable."

Conclusion

It follows that the renewed petition must be **DISMISSED**.

Any request for a renewed petition under 37 C.F.R. §1.137(a) must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extension of time under 37 CFR 1.136(a) are permitted. The response should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(a) *(or §1.137(b), if applicable)*". This is not a final agency action within the meaning of 5 U.S.C 704.

On renewed petition, Petitioner will need to furnish the evidence discussed above. It is noted that a "Transmittal Form," PTO form PTO/SB/21 accompanied this petition. The form contains a certificate of mailing dated August 20, 2004. If Petitioner submitted a similar form with the

mailing of January 8, 2004 that contains a completed certificate of mailing, it is recommended that he submit a copy with his renewed petition.

Since Petitioner has provided neither of these forms of proof, it is possible that Petitioner has neither, and cannot furnish the evidence which would be required in order to establish that the delay was unavoidable. If this is in fact the case, Petitioner may also wish to consider filing a petition to revive based on unintentional abandonment under 37 CFR 1.137(b)[13].

The renewed petition should display "Please deliver to Paul Shanoski, c/o Office of Petitions" in a prominent manner.

To help assure prompt and proper attention to your response, please see Request for Alert Concerning Submitted Petitions, 1282 Official Gazette (May 18, 2004) for further information on how to assist the Office in delivering your submission to the correct location. The Petitioner may wish to consider telephoning the undersigned one month after the submission is made to confirm that the documents were properly delivered.

Any renewed petition may be submitted by mail[14], hand-delivery[15], or facsimile[16].

The application file will be retained in the Office of Petitions for two (2) months.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0011. Please note that on approximately September 28, 2004, the Office of Petitions will relocate to the new PTO location in Alexandria. Although the mailing address will remain the same, the general phone number for the Office of Petitions which should be used for status requests will change to 571-272-3282, and the telephone number for the undersigned will change to 571-272-3225.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

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13 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.

14 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

15 Customer Window, Mail Stop Petition, Crystal Plaza Two, Lobby, Room 1B03, Arlington, Virginia 22202.

16 (703) 872-9306 - please note this is a central facsimile number, and as such, there will be a delay in the delivery of the facsimile to the undersigned.

UNITED STATES 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

Dr. Clifford B. Cordy Jr.
6402 Mae Anne #20
Reno NV 89523

COPY MAILED

NOV 1 0 2004

OFFICE OF PETITIONS

In re Application of Clifford Bernard Cordy Application No. 10/385,360 Filed: March 11, 2003 Title: MORE AERODYNAMIC WHEEL FAIRINGS FOR SMALL AIRPLANES	: : : : : :	DECISION ON RENEWED PETITION UNDER 37 C.F.R. §1.137(A)

This is a decision on the renewed petition filed October 27, 2004, under 37 C.F.R. §1.137(a)[1], to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed December 17, 2003, which set a shortened statutory period for reply of three (3) months. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on March 18, 2004. A Notice of Abandonment was mailed August 11, 2004.

The original petition was submitted on August 23, 2004, and was dismissed via the mailing of a decision on September 10, 2004, for failure to establish that the delay was unavoidable within the meaning of 37 CFR 1.137(a). Petitioner asserted that a response was sent to the Office on January 8, 2004, but failed to produce either a postcard receipt or a certificate of mailing which would substantiate this allegation.

With the renewed Petition, Petitioner has included a one-page certificate of mailing dated "8 Jan 04." This submission cannot be accepted as it fails to fully identify the paper which it accompanies, and it is not securely attached to the same - as evinced by the fact that it was not

1 A grantable petition pursuant to 37 CFR 1.137(a) must be accompanied by:
(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(l);
(3) A showing to the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unavoidable;
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

submitted with the original petition[2]. Petitioner has also referred to a mysterious "blue postcard," which does not appear to be the sort of postcard discussed in the former decision.

It follows that the renewed petition must be **DISMISSED**.

Any request for a renewed petition under 37 C.F.R. §1.137(a) must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extension of time under 37 CFR 1.136(a) are permitted. The response should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(a) *(or §1.137(b), if applicable)*". This is not a final agency action within the meaning of 5 U.S.C §704.

Since Petitioner has failed to provide sufficient documentary evidence, it does not appear that Petitioner can meet the stringent requirements associated with the characterization of the abandonment as "unavoidable." Petitioner should strongly consider filing a petition to revive based on unintentional abandonment under 37 CFR 1.137(b)[3].

The renewed petition should display "Please deliver to Paul Shanoski, c/o Office of Petitions" in a prominent manner. To help assure prompt and proper attention to your response, please see Request for Alert Concerning Submitted Petitions, 1282 Official Gazette (May 18, 2004) for further information on how to assist the Office in delivering your submission to the correct location. The Petitioner may wish to consider telephoning the undersigned one month after the submission is made to confirm that the documents were properly delivered. Any renewed petition may be submitted by mail[4], hand-delivery[5], or facsimile[6].

The application file will be retained in the Office of Petitions for two (2) months.

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

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2 See MPEP 512.

3 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.

4 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

5 Customer Window, Mail Stop Petition, Crystal Plaza Two, Lobby, Room 1B03, Arlington, Virginia 22202.

6 (703) 872-9306 - please note this is a central facsimile number, and as such, there will be a delay in the delivery of the facsimile to the undersigned.

UNITED STATES 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

COPY MAILED

FEB 25 2005

OFFICE OF PETITIONS

Dr. Clifford B. Cordy Jr.
6402 Mae Anne #20
Reno NV 89523

In re Application of	:	
Clifford Bernard Cordy	:	
Application No. 10/385,360	:	DECISION ON SECOND
Filed: March 11, 2003	:	RENEWED PETITION
Title: MORE AERODYNAMIC WHEEL FAIRINGS FOR SMALL AIRPLANES	:	UNDER 37 C.F.R. §1.137(A)

This is a decision on the second renewed petition filed November 23, 2004, under 37 C.F.R. §1.137(a)[1], to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed December 17, 2003, which set a shortened statutory period for reply of three (3) months. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on March 18, 2004. A Notice of Abandonment was mailed August 11, 2004.

The original petition was submitted on August 23, 2004, along with a response to the Office action of December 17, 2003 as well as the petition fee, and was dismissed via the mailing of a decision on September 10, 2004, for failure to establish that a response was timely submitted on January 8, 2004. A renewed petition was submitted on October 27, 2004, which was dismissed via the mailing of a decision on November 10, 2004.

1 A grantable petition pursuant to 37 CFR 1.137(a) must be accompanied by:
(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(l);
(3) A showing to the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unavoidable;
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

Petitioner met requirements (1) and (2) above with the original petition. The fourth requirement is not applicable.

As to item (3), the showing of record is not sufficient to establish to the satisfaction of the Commissioner that the delay was unavoidable within the meaning of 37 CFR 1.137(a).

The Commissioner is responsible for determining the standard for unavoidable delay and for applying that standard.

"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. The Commissioner's interpretation of those provisions is entitled to considerable deference."[2]

"[T]he Commissioner's discretion cannot remain wholly uncontrolled, if the facts **clearly** demonstrate that the applicant's delay in prosecuting the application was unavoidable, and that the Commissioner's adverse determination lacked **any** basis in reason or common sense."[3]

"The court's review of a Commissioner's decision is 'limited, however, to a determination of whether the agency finding was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law.'"[4]

"The scope of review under the arbitrary and capricious standard is narrow and a court is not to substitute its judgment for that of the agency."[5]

The standard

"[T]he question of whether an applicant's delay in prosecuting an application was unavoidable must be decided on a case-by-case basis, taking all of the facts and circumstances into account."[6] The general question asked by the Office is: "Did petitioner act as a reasonable and prudent person in relation to his most important business?"[7]

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2 Rydeen v. Quigg, 748 F.Supp. 900, 904, 16 U.S.P.Q.2d (BNA) 1876 (D.D.C. 1990), aff'd without opinion (Rule 36), 937 F.2d 623 (Fed. Cir.1991) (citing Morganroth v. Quigg, 885 F.2d 843, 848, 12 U.S.P.Q.2d (BNA) 1125 (Fed. Cir. 1989); Ethicon, Inc. v. Quigg 849 F.2d 1422, 7 U.S.P.Q.2d (BNA 1152 (Fed. Cir. 1988) ("an agency's interpretation of a statute it administers is entitled to deference"); see also Chevron U.S.A. Inc. v. Natural Resources Defence 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.")

3 Commissariat A L'Energie Atomique et al. v. Watson, 274 F.2d 594, 597, 124 U.S.P.Q. (BNA) 126 (D.C. Cir. 1960) (emphasis added).

4 Haines v. Quigg, 673 F. Supp. 314, 316, 5 U.S.P.Q.2d (BNA) 1130 (N.D. Ind. 1987) (citing Camp v. Pitts, 411 U.S. 138, 93 S. Ct.1241, 1244 (1973) (citing 5 U.S.C. 706 (2)(A)); Beerly v. Dept. of Treasury, 768 F.2d 942, 945 (7th Cir. 1985); Smith v. Mossinghoff, 217 U.S. App. D.C. 27, 671 F.2d 533, 538 (D.C. Cir.1982)).

5 Ray v. Lehman, 55 F.3d 606, 608, 34 U.S.P.Q2d (BNA) 1786 (Fed. Cir. 1995) (citing Motor Vehicles Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co., 463 U.S. 29, 43, 77 L.Ed.2d 443, 103 S. Ct. 2856 (1983)).

6 Id.

7 See In re Mattulah, 38 App. D.C. 497 (D.C. Cir. 1912).

Nonawareness of a PTO rule will not constitute unavoidable delay[8]. The burden of showing the cause of the delay is on the person seeking to revive the application[9].

A delay caused by an applicant's lack of knowledge or improper application of the patent statute, rules of practice, or the MPEP is not rendered "unavoidable" due to either the applicant's reliance upon oral advice from USPTO employees or the USPTO's failure to advise the applicant to take corrective action[10].

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[11].

A petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable[12]."

The portions of the CFR and the MPEP relevant to the abandonment of this application

37 C.F.R. § 1.8 sets forth, in part:

> § 1.8 Certificate of mailing or transmission.
> (a) Except in the cases enumerated in paragraph (a)(2) of this section, correspondence required to be filed in the Patent and Trademark Office within a set period of time will be considered as being timely filed if the procedure described in this section is followed. The actual date of receipt will be used for all other purposes.
> (1) Correspondence will be considered as being timely filed if:
> (i) The correspondence is mailed or transmitted prior to expiration of the set period of time by being:
> (A) Addressed as set out in § 1.1(a) and deposited with the U.S. Postal Service with sufficient postage as first class mail; or
> (B) Transmitted by facsimile to the Patent and Trademark Office in accordance with § 1.6(d); and

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8 See Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (Fed. Cir. 1982) (citing Potter v. Dann, 201 U.S.P.Q. (BNA) 574 (D.D.C. 1978) for the proposition that counsel's nonawareness of PTO rules does not constitute "unavoidable" delay)). Although court decisions have only addressed the issue of lack of knowledge of an attorney, there is no reason to expect a different result due to lack of knowledge on the part of a pro se (one who prosecutes on his own) applicant. It would be inequitable for a court to determine that a client who spends his hard earned money on an attorney who happens not to know a specific rule should be held to a higher standard than a pro se applicant who makes (or is forced to make) the decision to file the application without the assistance of counsel.

9 Id.

10 See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985).

11 In re Mattullath, 38 App. D.C. at (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).

12 Haines, 673 F. Supp. at 314, 316-17; 5 USPQ2d at 1131-32.

(ii) The correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The person signing the certificate should have reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated.

(2) The procedure described in paragraph (a)(1) of this section does not apply to, and no benefit will be given to a Certificate of Mailing or Transmission on, the following:

(i) Relative to Patents and Patent Applications —

(A) The filing of a national patent application specification and drawing or other correspondence for the purpose of obtaining an application filing date, including a request for a continued prosecution application under §1.53(d);

(B) The filing of correspondence in an interference which an examiner-in-chief orders to be filed by hand or "Express Mail";

(C) The filing of agreements between parties to an interference under 35 U.S.C. 135(c);

(D) The filing of an international application for patent;

(E) The filing of correspondence in an international application before the U.S. Receiving Office, the U.S. International Searching Authority, or the U.S. International Preliminary Examining Authority;

(F) The filing of a copy of the international application and the basic national fee necessary to enter the national stage, as specified in §1.495(b).

.....

(b) In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the Patent and Trademark Office, and the application is held to be abandoned or the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Commissioner to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

(c) The Office may require additional evidence to determine if the correspondence was timely filed.

[41 FR 43721, Oct. 4, 1976; 43 FR 20461, May 11, 1978; para. (a). 47 FR 47381, Oct. 26, 1982, effective Oct. 26, 1982; para. (a),48 FR 2708, Jan. 20, 1983; para. (a) 49 FR 48416, Dec. 12, 1984, effective Feb. 11, 1985; para. (a), 49 FR 5171, Feb. 6, 1985, effective Mar. 8, 1985; 52 FR 20046, May 28, 1987; subparas. (a)(2)(xiv)-(xvi), 54 FR 37588, Sept. 11, 1989, effective Nov. 16, 1989; revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; para. (a) revised, 61 FR 56439, Nov. 1, 1996, effective Dec. 2, 1996; paras. (a)(2)(i)(A) & (b) revised; 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a)(2)(i)(F) revised, 67 FR 520, Jan. 4, 2002, effective Apr. 1, 2002]

Section 512 of the MPEP sets forth, in part:

Under 37 CFR 1.8, a person may state on certain papers directed to the Office (exceptions are stated in 37 CFR 1.8), the date on which the paper will be deposited in the United States Postal Service or transmitted by facsimile. If the date stated is within the period for reply, the reply in most instances will be considered to be timely. This is true even if the paper does not actually reach the Office until after the end of the period for reply. The Certificate of Mailing procedure does not apply to papers mailed in a foreign country.

The Certificate of Transmission procedure, however, also applies to papers transmitted to the Office from a foreign country provided that the correspondence being transmitted is not prohibited from being transmitted by facsimile and is not otherwise precluded from receiving the benefits under 37 CFR 1.8.

It should be noted, however, that the Office will continue its normal practice of stamping the date of receipt ("Office Date" Stamp) on all papers received through the mail or by facsimile except those filed under 37 CFR 1.10 (See MPEP § 513). The date stamped will also be the date which is entered on Office records and from which any subsequent periods are calculated. For example, 37 CFR 1.192 gives an appellant 2 months from the date of the appeal to file an appeal brief. For example, if the last day to reply to a final rejection was November 10, 1997, and applicant deposited a Notice of Appeal with fee in the U.S. mail on November 10, 1997, and so certified, that appeal is timely even if it was not received in the U.S. Patent and Trademark Office until November 16, 1997. Since the date of receipt will be used to calculate the time at which the brief is due, the brief was due on January 16, 1998. This is 2 months after the Mail Center date.

37 CFR 1.8(a)(2)(i)(A) specifically refers to a request for a continued prosecution application (CPA) filed under 37 CFR 1.53(d) as a correspondence filed for the purposes of obtaining an application filing date and the procedures and benefit set forth in 37 CFR 1.8(a)(1) are not applicable to a request for a CPA. The date on a certificate of mailing or transmission (37 CFR 1.8(a)) of a CPA is not controlling or even relevant. A CPA filed by facsimile transmission will not be accorded a filing date as of the date on the certificate of transmission unless Office records indicate, or applicant otherwise establishes pursuant to 37 CFR 1.6(f), receipt in the Office of the complete CPA on the date on the certificate of transmission and that date is not a Saturday, Sunday, or Federal holiday within the District of Columbia.

I. PROCEDURE BY APPLICANT

(A) The certification requires a signature. Specifically, if the certification appears on a paper that requires a signature, two signatures are required, one for the paper and one for the certification. Although not specifically required by 37 CFR 1.8, it is preferred that the certificate be signed by the applicant, assignee, or registered practitioner.

(B) When possible, the certification should appear on a portion of the paper being submitted. However, if there is insufficient space to make the certification on the same paper, the certification should be on a separate sheet securely attached to the paper.

(C) When the certification is presented on a separate sheet, that sheet must (1) be signed and (2) fully identify and be securely attached to the paper it accompanies. The required identification should include the application number and filing date of the application as well as the type of paper being filed, e.g., reply to rejection or refusal, Notice of Appeal, etc. An unsigned certification will not be considered acceptable. Moreover, without the proper identifying data, a certification presented on a separate sheet will not be considered acceptable if there is any question or doubt concerning the connection between the sheet and the paper filed. If the sheet should become detached from the paper and thereafter not associated with the appropriate file, evidence that this sheet was received in the Office can be supported by submitting a copy of a postcard receipt specifically identifying this sheet and the paper and by submitting a copy of the sheet as originally mailed. Attention is directed to MPEP §503 relative to the use of postcards as receipts.

(D) In situations wherein the correspondence includes papers for more than one application (e.g., a single envelope containing separate papers responding to Office actions in different applications) or papers for various parts of the Office (e.g., a patent issue fee transmittal form PTOL-85B and an assignment), each

paper must have its own certification as a part thereof or attached thereto. Although **>Part B of Form PTOL-85, Notice of Allowance and Fee(s) Due<, may contain a Certificate of Mailing thereon, a separate Certificate of Mailing is required for all papers included with this form, including formal drawings**. Checks submitted with the papers do not require certification.

(E) In situations wherein the correspondence includes several papers directed to the same area of the Office for the same application (for example, a proposed reply under 37 CFR 1.116 and a Notice of Appeal), each paper should have its own certification as a part thereof or attached thereto.

(F) For the purposes of 37 CFR 1.8(a)(1)(i)(A), first class mail is interpreted as including "Express Mail " and "Priority Mail " deposited with the U.S. Postal Service.

Alternatively, the correspondence may be submitted with a cover or transmittal letter which itemizes the papers and on which is placed the certificate under 37 CFR 1.8.

[41 FR 43721, Oct. 4, 1976; 43 FR 20461, May 11, 1978; para. (a). 47 FR 47381, Oct. 26, 1982, effective Oct. 26, 1982; para. (a),48 FR 2708, Jan. 20, 1983; para. (a) 49 FR 48416, Dec. 12, 1984, effective Feb. 11, 1985; para. (a), 49 FR 5171, Feb. 6, 1985, effective Mar. 8, 1985; 52 FR 20046, May 28, 1987; subparas. (a)(2)(xiv)-(xvi), 54 FR 37588, Sept. 11, 1989, effective Nov. 16, 1989; revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; para. (a) revised, 61 FR 56439, Nov. 1, 1996, effective Dec. 2, 1996; paras. (a)(2)(i)(A) & (b) revised; 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a)(2)(i)(F) revised, 67 FR 520, Jan. 4, 2002, effective Apr. 1, 2002]

(Emphasis added)

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.

37 C.F.R. § 1.134: Time period for reply to an Office action.

An Office action will notify the applicant of any non-statutory or shortened statutory time period set for reply to an Office action. Unless the applicant is notified in writing that a reply is required in less than six months, a maximum period of six months is allowed.

[47 FR 41276, Sept. 17, 1982, effective Oct. 1, 1982; revised, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997]

37 CFR §1.135: Abandonment for failure to reply within time period.

(a) If an applicant of a patent application fails to reply within the time period provided under § 1.134 and § 1.136, the application will become abandoned unless an Office action indicates otherwise.
(b) Prosecution of an application to save it from abandonment pursuant to paragraph (a) of this section must include such complete and proper reply as the condition of the application may require. The admission of, or refusal to admit, any amendment after final rejection or any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment.
(c) When reply by the applicant is a bona fide attempt to advance the application to final action, and is substantially a complete reply to the non-final Office action, but consideration of some matter or compliance with some requirement has been inadvertently omitted, applicant may be given a new time period for reply under § 1.134 to supply the omission.

Application of the standard to the current facts and circumstances

As stated above, a non-final Office action was mailed to the applicant on December 17, 2003. With this second renewed petition, Petitioner has again maintained that a response was sent to the Office on January 8, 2004. Petitioner has included a certificate of mailing which is dated "8 Jan 04," the response which was purportedly submitted on this date, and what appears to be print-outs of computer file properties with a date of January 8, 2004 in the "modified" field.

This argument is not persuasive.

The Patent Office file is the official record of the papers filed in this application. The official electronic file has been reviewed, and the response which was purportedly submitted on January 8, 2004 has not been located.

It is noted that Petitioner has not submitted a postcard receipt to evince receipt of the drawings.

The PTO has a well established and well publicized practice of providing a receipt for papers filed in the PTO to any applicant desiring a receipt. The practice requires that any paper for which a receipt is desired be filed in the PTO with a self-addressed postcard identifying the paper. A postcard receipt which itemizes and properly identifies the papers which are being filed

serves as prima facie evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO. See section 503, Manual Of Patent Examining Procedure (MPEP 503).

Regarding the certificate of mailing pursuant to 37 C.F.R.§1.8, the certificate fails to constitute persuasive evidence that the above-identified materials were sent to the Office on January 8, 2004, for the following reason.

It is clear that the certificate of mailing was not placed on the response to the non-final office action, but rather it constituted a separate sheet. As developed in the decision on the renewed petition, since the certificate of mailing was not included along with the response on original petition, it is obvious that the former was not securely attached to the latter, as is required by MPEP 512(I)(B) and (C).

Although the certificate of mailing was signed and it identifies the application serial number and the title of the application, it does not contain the type of paper which was filed. Pursuant to MPEP 512(I)(C), without this proper identifying data, the certification presented on a separate sheet cannot be considered acceptable since there is a question or doubt concerning the connection between the sheet and the paper filed.

Petitioner does not appear to be in possession of a postcard receipt, and the certificate of mailing presented with both the renewed and this second renewed petitions fails to constitute persuasive evidence. Therefore, Petitioner has not established that the mailing was sent January 8, 2004, and the mailing was subsequently either lost before it reached the Office or misplaced within the Office. As such, Petitioner is not able to characterize the abandonment as "unavoidable."

Conclusion

It follows that the renewed petition must be **DISMISSED**.

Petitioner's only relief is a petition under 37 C.F.R. §1.137(b) [13], and - having been made aware of this reality – Petitioner's delay in promptly seeking relief under 37 C.F.R. §1.137(b) may be considered evidence of intentional delay and an absolute bar to revival.

Any request for a renewed petition under 37 C.F.R. §1.137(a) must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extension of time under 37 CFR 1.136(a) are permitted. The response should include a cover letter entitled "Third Renewed Petition Under 37 CFR 1.137(a) *(or §1.137(b), if applicable)*". This is not a final agency action within the meaning of 5 U.S.C 704.

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13 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.

If Petitioner chooses to file the third renewed petition under 1.137(a), and the third renewed petition is not granted, a final agency action will be issued, and there will be no further reconsideration of this matter.[14, 15]

The third renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski.

To help assure prompt and proper attention to your response, please see Request for Alert Concerning Submitted Petitions, 1282 Official Gazette (May 18, 2004) for further information on how to assist the Office in delivering your submission to the correct location. The Petitioner may wish to consider telephoning the undersigned one month after the submission is made to confirm that the documents were properly delivered.

Any renewed petition may be submitted by mail[16], hand-delivery[17], or facsimile[18].

The application file will be retained in the Office of Petitions for two (2) months.

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

---

[14] 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.

15 If, on the third request for reconsideration, Petitioner fails to satisfy the showings burden required: (a) the resulting decision may be one viewed as final agency action; and (b) provisions for reconsideration, such as those at 37 C.F.R. §1.137(e), will **not** apply to that decision.

16 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
17 Customer Window, Mail Stop Petition, Crystal Plaza Two, Lobby, Room 1B03, Arlington, Virginia 22202.
18 (703) 872-9306 - please note this is a central facsimile number, and as such, there will be a delay in the delivery of the facsimile to the undersigned, which could be as much as one month.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVE
SUITE 6300
SEATTLE WA 98104-7092

COPY MAILED
MAY 19 2005
OFFICE OF PETITIONS

In re Application of	:	
Clifford Bernard Cordy	:	
Application No. 10/385,360	:	DECISION ON PETITION
Filed: March 11, 2003	:	UNDER 37 C.F.R. §1.137(B)
Title: MORE AERODYNAMIC WHEEL	:	
FAIRINGS FOR SMALL AIRPLANES	:	

This is a decision on the petition under 37 CFR §1.137(b)[1], filed April 21, 2005, to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed December 17, 2003, which set a shortened statutory period for reply of three (3) months. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on March 18, 2004. A Notice of Abandonment was mailed August 11, 2004.

A petition under 37 C.F.R. §1.137(a) was filed on August 23, 2004, and was dismissed via the mailing of a decision on September 10, 2004. Renewed petitions were filed on October 27, 2004 and November 23, 2004, and were dismissed via the mailing of decisions on November 10, 2004 and February 25, 2005, respectively.

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.

Petitioner submitted the required reply along with his petition of August 23, 2004. With the present petition, Petitioner has supplied the petition fee and the proper statement of unintentional delay. A terminal disclaimer is not required.

Petitioner has met all requirements for a grantable petition under 37 C.F.R. §1.137(b). As such, the petition is **GRANTED**.

After this decision is mailed, the application will be forwarded to Technology Center 3600 for further processing.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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www.uspto.gov

In re Patent No. 6739878
Issue Date: May 25,2004
Application No. 10385364
Filed: March 10,2003
Attorney Docket No.

:

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

:

This is a decision on the electronic petition, filed December 21,2009 ,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 December 21,2009 . 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)
6,739,878	2004-05-25	10/385,364	2003-03-10	BASIC-020A

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	/Bruce B. Brunda/	Date (YYYY-MM-DD)	2009-12-21
Name	Bruce B. Brunda	Registration Number	28497

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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COMMISSIONER FOR PATENTS
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Paper No. 4

William Squire
Carella, Byrne, Bain, Gilfillan,
Cecchi, Stewart & Olstein
6 Becker Farm Road
Roseland NJ 07068

COPY MAILED

JUN 25 2003

OFFICE OF PETITIONS

In re Application of
CARLBORG et al.
Application No. 10/385,369
Filed: March 10, 2003
Attorney Docket No. 415000-708

ON PETITION

This is in response to the petition under 37 CFR 1.47(a), filed on May 12, 2003.

The petition is **dismissed as moot**.

In accordance with 37 CFR 1.63(d), petitioner has submitted a copy of the declaration filed in Application No. 09/687,976, filed on October 13, 2000, (now U.S. Patent No. 6,534,022, issued on March 18, 2003) of which the present filing is a divisional application. Furthermore, a copy of the decision, mailed on August 1, 2001, granting a petition to accord status under 37 CFR 1.47(a) to the prior application has been placed in the file of the present application.

As Rule 1.47(a) status was granted in the prior application, this application is hereby accorded Rule 1.47(a) status.

As no petition is necessary to accord Rule 1.47(a) status in this application, the petition is dismissed as moot. No petition fee is necessary and none has been charged.

As provided in Rule 1.47(c), the Office is dispensing with the notice provision in this divisional application because notice was provided after the grant of Rule 1.47(a) status in the prior application.

The application will be forwarded to Technology Center 1700 for examination in due course.

Telephone inquiries should be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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ROPES & GRAY LLP
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NEW YORK NY 10020-1105

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DEC 3 0 2005

OFFICE OF PETITIONS

In re Application of	:	
Brenner et al.	:	
Application No. 10/385,376	:	DECISION ON PETITION
Filed: March 6, 2003	:	
Atty Docket No. ODS-1 Cont. 6	:	

This is a decision on the petition under 37 CFR 1.181, filed July 13, 2005, to withdraw the holding of abandonment for the above-identified application. The petition was recently forwarded to the Office of Petitions for a decision on the merits. The Office sincerely apologizes for any inconvenience to petitioners.

This application was held abandoned for failure to respond timely to the final Office Action mailed on August 17, 2004, which set a three-month shortened statutory period for reply. In the apparent absence of a timely filed response, the application was held abandoned and a Notice of Abandonment was mailed on June 15, 2005.

In the present petition, petitioners assert that they filed a timely reply in response to the final Office action on February 15, 2005. A copy of the response in the form of a Notice of Appeal and a request for an extension of time for response within the third month accompany the petition.

Upon a review of the record, the Office has located the Notice of Appeal and the request for an extension of time for response within the third month, filed on February 15, 2005, in response to the final Office action. Accordingly, the petition is **granted**. The Notice of Abandonment was mailed in error and it is hereby withdrawn. The application is restored to pending status in view of the fact that a response was timely filed and received on February 15, 2005.

The matter is being referred to the Technology Center Art Unit 3713 for consideration of the Notice of Appeal.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3211. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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COMMISSIONER FOR PATENTS
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PATRICK H. McCOLLUM
PD HOLDINGS (USA) INC.
363 N. SAM HOUSTON PKWY. EAST
SUITE 1700
HOUSTON, TX 77060

COPY MAILED
JUL 13 2005
OFFICE OF PETITIONS

In re Application of :
MacMilan Wisler :
Application No. 10/385,388 : ON PETITION
Deposited: March 7, 2003 :
Title of Invention: :
NUCLEAR RESONANCE TOOL WITH :
CONDUCTIVE AND NON-CONDUCTIVE :
ASSEMBLY :

This is in response to the petition filed to revive the application under 37 CFR 1.137(a), filed June 21, 2005.

The petition under 37 CFR 1.137(a) is dismissed.

Any further petition to revive the above-identified application (under 37 CFR 1.137(a)), 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 "Request for Reconsideration of Petition under 37 CFR 1.137", and be addressed to Petitions Attorney Derek L. Woods. This is **not** final agency action within the meaning of 5 U.S.C. § 704.

Background:

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed March 29, 2004. The Office action set a one (1) month period for reply.

Applicant responded to the Office action on May 12, 2004 (Certificate of Mailing dated May 11, 2004); however, the response was not timely as Office action set a one (1) month period for reply. Accordingly, the application became abandoned

on April 30, 2004. A Notice of Abandonment was mailed June 14, 2005.

The instant petition

Applicant files the instant petition and asserts that a one (1) month extension of time, along with a credit card authorization, was faxed to the Patent Office on November 5, 2004, and subsequently charged to the credit card. Applicant also notes that the Notice of Abandonment states that the Examiner made a phone call to Applicant, but Applicant has no record of such a phone call.

A Grantable Petition Under 37 CFR 1.137(a)

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by: (**1**) the required reply (unless previously filed), which may met by the filing of a notice of appeal and the requisite fee; a Request for Continued Examination; 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).

Applicant lacks item (**1**) as set forth above.

Applicable Law

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 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

[1] The Commissioner is responsible for determining the standard for unavoidable delay and for applying that standard.

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" 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).

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[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).

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 asserts that a one (1) month extension of time, along with a credit card authorization, was faxed to the Patent Office on November 5, 2004, and subsequently charged to the credit card. Applicant also notes that the Notice of Abandonment states that the Examiner made a phone call to Applicant, but Applicant has no record of such a phone call.

As to item (3), Applicant has failed to demonstrate that the delay in responding to the final Office action was unavoidable. Applicant filed a reply on May 11, 2004, almost two (2) weeks after the reply was due. It was at that time that Applicant should have filed his request for extension of time. Applicant admits in his petition that the extension of time was filed five (5) months after the reply was due, and over four (4) months after filing the untimely reply to the Office action. In November, Applicant should have filed for a five (5) month extension of time[4].

As to Applicant's assertion, that the delay was unavoidable because Applicant filed a one (1) month extension of time, along with a credit card authorization via facsimile, to the Patent Office on November 5, 2004, which was subsequently charged to the credit card, it is re-iterated that "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). While the delay in paying the issue fee may have been unintentional, it was not unavoidable.

Alternative venue

Applicant is strongly urged to file a petition stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317

[4] Applicant was notified in a Notice of Fee Deficiency, mailed November 4, 2004, that the response filed on May 12, 2004 was not fully responsive to the Office action because the response required a one (1) month extension of time fee.

(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 was "unavoidable." An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required fee, currently $750.00.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay can not make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revive under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney/Advisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

PATRICK H. McCOLLUM
PD HOLDINGS (USA) INC.
363 N. SAM HOUSTON PKWY. EAST
SUITE 1700
HOUSTON, TX 77060

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SEP 16 2005

OFFICE OF PETITIONS

In re Application of :
MacMilan Wisler :
Application No. 10/385,388 : ON PETITION
Deposited: March 7, 2003 :
Title of Invention: :
NUCLEAR RESONANCE TOOL WITH :
CONDUCTIVE AND NON-CONDUCTIVE :
ASSEMBLY :

This is in response to the petition filed to revive the application under 37 CFR 1.137(b), filed August 1, 2005.

The petition under 37 CFR 1.137(b) is granted.

Background:

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed March 29, 2004. The Office action set a one (1) month period for reply.

Applicant responded to the Office action on May 12, 2004 (Certificate of Mailing dated May 11, 2004); however, the response was not timely as Office action set a one (1) month period for reply. Accordingly, the application became abandoned on April 30, 2004. A Notice of Abandonment was mailed June 14, 2005.

The instant petition

With the instant petition, Petitioner has satisfied the requirements of a grantable petition under 37 CFR 1.137(b). A response to the March 29, 2004 Office action is filed with the instant petition. Accordingly, the petition is granted.

This application is being referred to Technology Center Art Unit 2878 for processing of the response to the March 29, 2004 Office action, filed May 12, 2004, in due course.

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

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MILDE & HOFFBERG, LLP
10 BANK STREET
SUITE 460
WHITE PLAINS, NY 10606

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OFFICE OF PETITIONS

In re Application of	:	
Wai Wu, et. al.	:	
Application No. 10/385,389	:	ON PETITION
Filed: March 7, 2003	:	
Attorney Docket No. KMA 204	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 25, 2005, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely submit the issue fee.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of $700 for payment of the issue fee; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay.

The Office acknowledges receipt of $30 for ten (10) advance soft copies.

The application file is being referred to the Publishing Division to be processed into a patent.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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HEWLETT-PACKARD COMPANY
INTELLECTUAL PROPERTY ADMINISTRATION
3404 E. HARMONY ROAD
MAIL STOP 35
FORT COLLINS CO 80528

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JAN 05 2010

In re Application of	:	
Theresa A. Burkes et al	:	
Application No. 10/385,393	:	DECISION ON PETITION
Filed: March 10, 2003	:	
Attorney Docket No. 100202743-1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 25, 2009, to revive the above-identified application.

The petition is **GRANTED**.

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 February 27, 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 (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is .

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal; (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay.

It is noted that an Appeal Brief was submitted on December 22, 2009. The $540.00 fee for filing the Appeal Brief has been charged to deposit account no. 08-2025 as authorization was provided

on October 25, 2009 for any other sections in Title 37 of the Code of Federal Regulations that may regulate fees.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 2625 for appropriate action by the examiner in the normal course of business on the reply received October 25, 2009 and the Appeal Brief filed December 22, 2009.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

cc:

MICHAEL DRYJA, ESQ.
LAW OFFICES OF MICHAEL DRYJA
1230 E BASELINE RD #103-248
MESA, AZ 85204

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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MEDTRONIC
Attn: Noreen Johnson - IP Legal Department
2600 Sofamor Danek Drive
MEMPHIS, TN 38132

Mail Date: 04/21/2010

Applicant	: Kevin T. Foley	: DECISION ON REQUEST FOR
Patent Number	: 7608096	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/385,396	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/10/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **816** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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GREENVILLE SC 29603-0827

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OFFICE OF PETITIONS

ON PETITION

In re Application of
John W. VanZee et al.
Application No. 10/385,420
Filed: March 10, 2003
Attorney Docket No. **033101.00002**

This is a decision on the petition filed May 25, 2007 under 37 CFR 1.137(b), [1] to revive the above-identified application.

The petition under 37 CFR 1.137 (b) is **GRANTED**.

This application became abandoned May 23, 2007 for failure to timely pay the issue fee on or before May 22, 2007. Accordingly, the Notice of Abandonment was mailed July 17, 2007 after the filing of the instant petition.

The issue fee, publication fee and petition fee have all been applied.

All other requirements of 37 CFR 1.137(b) having now been met, this application file is being forwarded to the Publishing Division to be processed into a patent.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

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INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET, N.W.
SUITE 1200
WASHINGTON DC 20006-1109

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OFFICE OF PETITIONS

In re Application of	:	
Jayanta ROY-CHOWDHURY et al.	:	
Application No. 10/385,440	:	DECISION ON PETITION
Filed: March 12, 2003	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 59046.000028	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed March 11, 2004, and resubmitted October 19, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §120 and 365(c) for the benefit of the prior-filed nonprovisional and PCT applications set forth in the concurrently filed amendment.

The petition is **DISMISSED.**

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The petition does not comply with item (1)

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation,

divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." A benefit claim that merely states: "This application claims the benefit of Application No. 10/---, filed---," does not comply with 37 CFR 1.72(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. Also, the status of each nonprovisional parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent nonprovisional application. See MPEP Section 201.11, Rev. 2, May 2004, Reference to Prior Application. The amendment filed March 11, 2004 and resubmitted October 19, 2005 fails to state the relationship of Application No. 08/808,629, filed February 28, 1997, to PCT application No. PCT/US98/03606.

Before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition under 37 CFR § 1.78(a)(3) and a substitute amendment or an Application Data Sheet (complying with 37 CFR 1.121 and 37 CFR 1.76(b)(5)) which state the relationship of the prior-filed application to this application are required.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to David Bucci at (571) 272-7099.

Brian Hearn
Petitions Examiner
Office of Petitions

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HUNTON & WILLIAMS LLP
INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET, N.W.
SUITE 1200
WASHINGTON DC 20006-1109

In re Application of	:
Jayanta ROY-CHOWDURY et al.	:
Application No. 10/385,440	: DECISION ON PETITION
Filed: March 12, 2003	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 59046.000028	:

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed January 10, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

All the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37

CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional applications, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to David Bucci at (571) 272-7099. 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 1644 for appropriate action on the amendment filed January 10, 2006, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications.

Brian Hearn
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/385,440	03/12/2003	1644	651	59046.000028	14	46	4

CONFIRMATION NO. 6430

REPLACEMENT FILING RECEIPT

OC000000017974753

21967
HUNTON & WILLIAMS LLP
INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET, N.W.
SUITE 1200
WASHINGTON, DC 20006-1109

Date Mailed: 02/02/2006

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Jayanta Roy-Chowdhury, New Rochelle, NY;
Yaron Ilan, Jerusalem, ISRAEL;
Elazar Rabbani, New York, NY;
Dean L. Engelhardt, New York, NY;

Assignment For Published Patent Application

Enzo Therapeutics, Inc.

Power of Attorney:

David Milligan--42893

Domestic Priority data as claimed by applicant

This application is a CON of 09/171,909 05/09/2001
which is a 371 of PCT/US98/03606 02/26/1998
which is a CIP of 08/808,629 02/28/1997 ABN

Foreign Applications

If Required, Foreign Filing License Granted: 05/30/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/385,440

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Novel processes implementing selective immune down regulation (SIDR)

Preliminary Class

424

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

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Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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GARRETT & DUNNER
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

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OFFICE OF PETITIONS

In re Application of	:	
Tetsuya Kurosawa	:	
Application No. 10/385,505	:	ON PETITION
Filed: March 12, 2003	:	
Attorney Docket No. 04329.3010	:	

This is a decision on the petition, filed July 6, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 21, 2005, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 3723 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Koshi Torii et al :
Application No. 10/385,516 :
Filed: March 12, 2003 :
Attorney Docket No. 115394

This is a decision on the petition, filed November 9, 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 30, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

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.

Irvin Dingle
Petitions Examiner
Office of Petitions

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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ALEXANDRIA VA 22313-1404

In re Application of :
Wang et al. :
Application No. 10/385,521 :
Filed: March 12, 2003 :
Attorney Docket No. 021565-113 :

ON APPLICATION FOR
PATENT TERM ADJUSTMENT

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT RECONSIDERATION UNDER 37 C.F.R. § 1.705(B) filed June 2, 2009. Applicants submit that the correct patent term adjustment to be indicated on the patent is one thousand one hundred seventy (1170) days, not zero (0) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

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[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Charlema Grant at (571) 272-3215.

Kery A Fries

Kery Fries
Senior Legal Advisor Attorney
Office of Patent Legal Administration

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of	Group Art Unit: 1638
Ming-Bo Wang et al.	Examiner: Ashwin D Mehta
Application No.: 10/385,521	Confirmation No.: 3697
Filed: March 12, 2003	
For: MODIFIED GENE-SILENCING RNA AND USES THEREOF	

REQUEST FOR RECONSIDERATION OF THE PATENT TERM ADJUSTMENT PURSUANT TO 37 C.F.R. § 1.705(B)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Patentees hereby request reconsideration the patent term adjustment indicated in the determination that accompanied the Notice of Allowance. Pursuant to 37 C.F.R. § 1.705(b), this request is timely filed no later than the payment of the issue fee.

Patentees respectfully submit that the patent term adjustment was incorrectly calculated in that the Office has failed to consider the pendency of the application in excess of 3 years from the filing date.

Furthermore, the Office has failed to calculate the patent term adjustment in accordance with the decision in *Wyeth v. Dudas*, 88 U.S.P.Q.2d 1538 (D.D.C. 2008). In the *Wyeth v. Dudas* decision the court found that the period of delay under 35 U.S.C. § 154(b)(1)(B) and 37 C.F.R. § 1.702(b) may not be overlapping with every period of delay for which adjustment must be afforded under 35 U.S.C. § 154(b)(1)(A) and 37 C.F.R. § 1.702(a). It is understood that the position of the Office in this regard has previously been as follows:

> [T]he Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C.

> 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

69 Fed. Reg. 34283 (2004). However, the decision in *Wyeth v. Dudas*, 88 U.S.P.Q.2d 1538 (D.D.C. 2008) clearly pointed out the error in the Office's position. As the court in *Wyeth* has pointed out:

> The problem with the PTO's construction is that it considers the application delayed under §154(b)(1)(B) during the period before it has been delayed. That construction cannot be squared with the language of §154(b)(1)(B), which applies "if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years." (Emphasis added.) "B delay" begins when the PTO has failed to issue a patent within three years, not before.

Wyeth v. Dudas, 88 U.S.P.Q.2d 1538, 1541 (D.D.C. 2008).

There is a 281 day period of adjustment under 37 C.F.R. § 1.702(a) that began on the day after the date that is fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 and ended on the day that the first action under 35 U.S.C. § 132 was mailed. This period cannot have overlapped with the 1284 day period under 37 C.F.R. § 1.702(b) in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date that the patent is projected to be issued in the Determination of Patent Term Adjustment that accompanied the Notice of allowance.

The sum of the non-overlapping periods under 37 C.F.R. § 1.702 is 1565 days. Subtracting 395 days of applicant delay under 37 C.F.R. § 1.704 results in a final adjustment of 1170 days. Accordingly, as set forth below, the Notice of Allowance should have indicated that Patentees are entitled to 1170 days of patent term adjustment rather than the 0 days indicated by the Office with the Notice of Allowance.

This request complies with the requirements of 37 C.F.R. § 1.705(b) as follows:

(1) The request is accompanied by the fee set forth in § 1.18(e); and

(2) Below, Patentees set forth a statement of the facts involved, specifying:

(i) The correct patent term adjustment and the basis or bases under § 1.702 for the adjustment;

(ii) The relevant dates as specified in §§ 1.703(a) through (e) for which an adjustment is sought and the adjustment as specified in § 1.703(f) to which the patent is entitled;

(iii) Whether the patent is subject to a terminal disclaimer and any expiration date specified in the terminal disclaimer; and

(iv)

(A) Any circumstances during the prosecution of the application resulting in the patent that constitute a failure to engage in reasonable efforts to conclude processing or examination of such application as set forth in § 1.704; or

(B) That there were no circumstances constituting a failure to engage in reasonable efforts to conclude processing or examination of such application as set forth in § 1.704.

The Correct Patent Term Adjustment and Bases Under 37 C.F.R. § 1.702.

Assuming that the patent issues on the Tuesday before the expiration of 28 weeks after the Notice of Allowance, i.e. September 15, 2009, the correct patent term adjustment calculation should have been 1170 days.

The bases under § 1.702 for the adjustment are as follows:

Under 37 C.F.R. § 1.702(a)(1), the issuance of the patent was delayed due to the failure of the Office to at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 in an international application. The application was filed on March 12, 2003 and a first action was not mailed until February 17, 2005.

Under 37 C.F.R. § 1.702(a)(2) the issuance of the patent was delayed due to the failure of the Office to respond to a reply under 35 U.S.C. 132 or to an appeal taken under

35 U.S.C. 134 not later than four months after the date on which the reply was filed or the appeal was taken. A response was filed July 22, 2008. The Office did not respond until March 3, 2009.

Under 37 C.F.R. § 1.702(b), the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application. The application was filed March 12, 2003. The date that was three years after the date on which the application was filed was March 12, 2006. The calculation in the Notice of Allowance assumes that the patent will issue on September 15, 2009, which is the Tuesday before the expiration of 28 weeks after the mailing date of the Notice of Allowance.

No time was consumed by continued examination of the application under 35 U.S.C. 132(b), an interference proceeding under 35 U.S.C. 135(a), by the imposition of a secrecy order under 35 U.S.C. 181, by review by the Board of Patent Appeals and Interferences or a Federal court, or any delay in the processing of the application by the Office that was requested by the applicant.

The Relevant Dates As Specified In 37 C.F.R. §§ 1.703(a) Through (e)

The relevant dates as specified in §§ 1.703(a) through (e) for which an adjustment is sought are as follows:

In accordance with 37 C.F.R. § 1.703(a), the period of adjustment under § 1.702(a) is the sum of the following periods:

The number of days in the period beginning on the day after the date that is fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 and ending on the date of mailing of an action under 35 U.S.C. 132. The application was filed on March 12, 2003. Therefore, the day that is 14 months after day that the application was filed is May 12, 2004. The first action was mailed

February 17, 2005. The period beginning on May 13, 2004 and ending February 17, 2005 comprises 281 days.

The number of days, if any, in the period beginning on the day after the date that is four months after the date a reply under § 1.111 was filed and ending on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first. A response was filed July 22, 2008. The day after the date that is four months after the reply was filed is November 23, 2008. The Office did not respond until March 3, 2009. The period beginning on November 23, 2008 and ending March 3, 2009 comprises 101 days.

The period of adjustment under § 1.702(b) is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the number of days in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued. The application was filed on March 12, 2003. The day after the date that is three years after the date on which the national stage commenced is March 13, 2006. The calculation in the Notice of Allowance assumes that the patent will issue on September 15, 2009, which is the Tuesday before the expiration of 28 weeks after the mailing date of the Notice of Allowance. Therefore, the period of adjustment under § 1.702(b) beginning March 13, 2006 and ending on September 15, 2009 is 1284 days.

Whether The Patent Is Subject To A Terminal Disclaimer

The patent is not subject to a terminal disclaimer.

Circumstances During The Prosecution Of The Application Resulting In The Patent That Constitute A Failure To Engage In Reasonable Efforts To Conclude Processing Or Examination Of Such Application As Set Forth In § 1.704

The circumstances during the prosecution of the application resulting in the patent that constituted a failure to engage in reasonable efforts to conclude processing or examination of such application as set forth in § 1.704 were as follows:

Applicant is deemed under 37 C.F.R. § 1.704(b) to have failed to engage in reasonable efforts to conclude processing or examination of an application for periods of time in excess of three months that were taken to reply to any notice or action by the Office.

An action was mailed February 17, 2005. The day after the date that is three months after the date of this mailing was May 18, 2005. A reply was filed on June 17, 2005. This period of delay was 31 days.

An action was mailed December 30, 2005. The day after the date that is three months after the date of this mailing was March 31, 2006. A reply was filed June 30, 2006. This period of delay was 92 days.

An action was mailed September 19, 2006. The day after the date that is three months after the date of this mailing was December 20, 2006. A reply was filed March 19, 2007. This period of delay was 90 days.

An action was mailed June 6, 2007. The day after the date that is three months after the date of this mailing was September 7, 2007. A reply was filed December 7, 2007. This period of delay was 91 days.

An action was mailed January 22, 2008. The day after the date that is three months after the date of this mailing was April 23, 2008. A reply was filed July 22, 2008. This period of delay was 91 days.

The cumulative total number of days calculated under 37 C.F.R. § 1.704 is 395 days.

The Adjustment As Specified In 37 C.F.R. § 1.703(f) To Which The Patent Is Entitled

The adjustment as specified in § 1.703(f) to which the patent is entitled is the sum of the periods calculated under paragraphs (a) through (e) of 37 C.F.R. § 1.702, to the extent

that such periods are not overlapping, less the sum of the periods calculated under § 1.704. That is, 281 days under 37 C.F.R. § 1.702(a) in the period beginning on May 13, 2004 and ending February 17, 2005, plus 1284 days under § 1.702(b) in the period beginning March 13, 2006 and ending on September 15, 2009, the period under 37 C.F.R. § 1.702(a) beginning on November 23, 2008 and ending March 3, 2009 overlapping with the period under 37 C.F.R. § 1.702(b) — for a sum of 1565 days under 37 C.F.R. § 1.702 less 395 days calculated under 37 C.F.R. § 1.704. That is, the adjustment to which the patent is entitled should have been calculated to be 1170 days.

It is understood that if the patent does not issue on September 15, 2009 as projected then the patent term adjustment under 37 C.F.R. § 1.702(b) will be recalculated accordingly. However, applicants note that this recalculation must be made in accordance with the decision in *Wyeth v. Dudas*.

CONCLUSION

For the foregoing reasons, reconsideration and correction of the patent term adjustment is respectfully requested.

Respectfully submitted,

BUCHANAN INGERSOLL & ROONEY PC

Date: June 2, 2009

By: /Christopher L. North/
Registration No. 50433

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OFFICE OF PETITIONS

In re Patent No. 7,576,262	:
Wang et al.	: DECISION ON REQUEST FOR
Issue Date: August 18, 2009	: RECONSIDERATION OF
Application No. 10/385,521	: PATENT TERM ADJUSTMENT
Filed: March 12, 2003	: AND NOTICE OF INTENT
Attorney Docket No. 021565-113	: TO ISSUE CERTIFICATE OF
Title: MODIFIED GENE-SILENCING	: CORRECTION
RNA AND USES THEREOF	:

This is a decision on the petition filed on October 19, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand one hundred forty-one (1,141) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED TO THE EXTENT INDICATED HEREIN.**

Patentees have correctly set forth the period of adjustment to which the patent is entitled under 37 CFR 1.702(a) (281 days + 101 days).

Patentees have correctly set forth the period of adjustment to which the patent is entitled under 37 CFR 1.702(b) (1,255 days).

Patentees have correctly determined the number of days by which the periods of adjustment under 37 CFR 1.702(a) and (b) overlap (101 days).

Patentees have correctly set forth the number of days the period of adjustment under 37 CFR 1.702(a) and (b) must be reduced due to applicant delay (395 days).

The net result of patentees' calculation yields 1,141 days (281 days under 37 CFR 1.702(a) + 101 days under 37 CFR 1.702(a) + 1,255 days under 37 CFR 1.702(b) - 101 overlapping days - 395 days of applicant delay).

Patentees' calculation does not reflect the reduction of 47 days pursuant to 37 CFR 1.703(b)(4) in connection with the Notice of Appeal filed December 7, 2007. The reduction commenced December 7, 2007, the date that the Notice of Appeal was filed, and ended January 22, 2008, the date that the non-final Office action was mailed in response thereto. See, 37 CFR 1.703(b)(4).

In view thereof, the patent is entitled to an overall adjustment of 1,094 days (382 days under 37 CFR 1.702(a) + 1,255 days under 37 CFR 1.702(b) - 101 overlapping days - 47 days pursuant to 37 CFR 1.703(b)(4) - 395 days of applicant delay).

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by one thousand ninety-four (1,094) days.

Any request for reconsideration of this decision must be submitted within ONE MONTH of the mail date indicated herein. The time period for seeking reconsideration is not subject to extension under 37 CFR 1.136.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this matter should be directed to Petitions Attorney, Charlema Grant at (571) 272-3215.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,576,262 B2

DATED : **August 18, 2009** **DRAFT**

INVENTOR(S) : Wang 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 860 days

Delete the phrase "by 860 days" and insert – by 1,094 days--

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OFFICE OF PETITIONS

In re Application of :
James A. Andrews :
Application No. 10/385,598 : ON PETITION
Filed: March 10, 2003 :
Attorney Docket No. (20002) Andrews-1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 11, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of March 2, 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)(II)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is June 7, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $395, and the submission required by 37 CFR 1.114; (2) the petition fee of $750; and (3) a proper statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-1642.

This application is being referred to Technology Center AU 3732 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

April M. Wise
Petitions Examiner
Office of Petitions

Best Available Copy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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OFFICE OF PETITIONS

In re Application of	:	
James A. Andrews	:	
Application No. 10/385,598	:	DECISION ON PETITION
Filed: March 10, 2003	:	TO MAKE SPECIAL UNDER
Attorney Docket No. ANDREWS-1 (2002)	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed October 4, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a photocopy of applicant's passport. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4618.

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 3732 for action on the merits commensurate with this decision.

Kimberly Inabinet

Kimberly Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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FINNEGAN HENDERSON FARABOW
GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

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MAY 11 2006
OFFICE OF PETITIONS

In re Application of :
Toshiya Kotani et al :
Application No. 10/385,628 : ON PETITION
Filed: March 12, 2003 :
Attorney Docket No. 04329.3014

This is a decision on the petition filed, May 8, 2006 which is being treated as a petition under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on April 21, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2812 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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SEP 1 5 2003

OFFICE OF PETITIONS

LAWRENCE HARBIN
MCINTYRE HARBIN & KING LLP
500 9TH STREET, S.E.
WASHINGTON, DC 20003

In re Application of :
Richley, et al. :
Application No. 10/385,658 : DECISION GRANTING PETITION
Filed: March 12, 2003 :
Attorney Docket No. MHK..029.012 :

This is a decision on the petition filed July 7, 2003, requesting that the above-identified application retain the presently accorded a filing date of March 12, 2003.

On March 12, 2003, the above-identified application was filed. On May 29, 2003, the Office of Initial Patent Examination mailed a "Notice of Omitted Items of a Nonprovisional Application" (the "Notice"), stating that the application had been accorded a filing date of March 12, 2003, however, pages 2 and 4 of the specification appeared to have been omitted. The Notice allowed a non-extendable two month period for reply beginning from the mailing date of the Notice.

In response, on July 7, 2003, applicants filed the present petition, a copies of pages 2 and 4 of the specification, the Office date-stamped postcard receipt acknowledging receipt of seventeen pages of specification on March 12, 2003.

Upon review of the record, pages 2 and 4 of the specification have not been located among the application papers. However, the evidence is convincing that the application papers deposited March 12, 2003, included pages 2 and 4 of the specification, which were subsequently misplaced by the Office. Therefore, the application, including pages 2 and 4 of the specification, was complete on filing and entitled to the presently accorded filing date of March 12, 2003. The petition fee of $130.00 will be refunded in due course.

Accordingly, the petition is granted.

The application file is being returned to the Office of Initial Patent Examination for further processing with the presently accorded filing date of March 13, 2003, using the seventeen (17) pages of the specification filed on March 12, 2003, and indicating in the Office records that seventeen (17) pages of the specification were included on the filing date.

Any inquiries related to this decision should be directed to the undersigned (703)305-0010.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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Paper No. 5

LAWRENCE HARBIN
MCINTYRE HARBIN & KING LLP
500 9TH STREET, S.E.
WASHINGTON, DC 20003

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SEP 22 2003

OFFICE OF PETITIONS

In re Application of
Richley, et al.
Application No. 10/385,658
Filed: March 12, 2003
Attorney Docket No. MHK..029.012

DECISION GRANTING PETITION

This is a revised decision on the petition filed July 7, 2003, requesting that the above-identified application retain the presently accorded filing date of March 12, 2003.

The decision mailed September 15, 2003 is **vacated.**

The petition filed July 7, 2003, is **granted.**

On March 12, 2003, the above-identified application was filed. On May 29, 2003, the Office of Initial Patent Examination mailed a "Notice of Omitted Items of a Nonprovisional Application" (the "Notice"), stating that the application had been accorded a filing date of March 12, 2003, however, pages 2 and 4 of the specification appeared to have been omitted. The Notice allowed a non-extendable two month period for reply beginning from the mailing date of the Notice.

In response, on July 7, 2003, applicants filed the present petition, a copies of pages 2 and 4 of the specification, the Office date-stamped postcard receipt acknowledging receipt of seventeen pages of specification on March 12, 2003.

Upon review of the record, pages 2 and 4 of the specification have not been located among the application papers. However, the evidence is convincing that the application papers deposited March 12, 2003, included pages 2 and 4 of the specification, which were subsequently misplaced by the Office. Therefore, the application, including pages 2 and 4 of the specification, was complete on filing and entitled to the presently accorded filing date of March 12, 2003. The petition fee of $130.00 has been refunded.

Accordingly, the petition is granted.

The application file is being returned to the Office of Initial Patent Examination for further processing with the presently accorded filing date of March 12, 2003, using the seventeen (17) pages of the specification filed on March 12, 2003, and indicating in the Office records that seventeen (17) pages of the specification were included on the filing date.

Any inquiries related to this decision should be directed to the undersigned (703)305-0010.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

In re Patent No. 7,650,415	:	
Issue Date: January 19, 2010	:	
Application No. 10/385,675	:	NOTICE
Filed: March 10, 2003	:	
Attorney Docket No. 010327-006300US	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed December 1, 2009. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby accepted. The petition is **GRANTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

This file is being forwarded to Files Repository.

Telephone inquiries related to this decision should be directed to the Kimberly Inabinet at (571) 272-4618.

Carl Friedman
Petitions Examiner
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

Mail Date: 04/26/2010

Applicant	: David Peterson	: DECISION ON REQUEST FOR
Patent Number	: 7650415	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/385,675	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/10/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1003** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

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AUG 21 2006

OFFICE OF PETITIONS

In re Application of	:	
Ito et al.	:	DECISION ON PETITION TO
Application No. 10/385,679	:	WITHDRAW HOLDING OF
Filed: 12 March, 2003	:	ABANDONMENT
Attorney Docket No. Q74609	:	

This is a decision on the petition filed on 21 September, 2004, to withdraw the holding of abandonment in the above-identified application.

The Office apologizes for the delay in responding to the present petition and regrets any inconvenience to petitioners.

The petition is **GRANTED**.

The application was held abandoned for failure to timely respond to the Notice of Allowance and Fee(s) Due and Notice of Allowability mailed on 13 April, 2004, which set a three (3) month statutory period for reply. Notice of Abandonment was mailed on 17 August, 2004.

Petitioners assert that the Notices mailed on 13 April, 2004, were never received.

In the absence of any irregularity in the mailing of the final Office action, there is a strong presumption that the final Office action was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the final 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 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). The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the final Office action may have been lost after receipt rather than a conclusion that the final Office action was lost in the mail.

A review of the record indicates that the Office action was properly mailed to the petitioners at the correspondence address of record at the time of mailing. Thus, there was no irregularity in mailing the Office action on the part of the United States Patent and Trademark Office.

In support of the petition, petitioner has presented a statement by registered patent attorney Steven M. Gruskin, stating that a search of the file jacket and docket records for this application shows that the Notice of Allowance was never received. A copy of the file jacket and docket report records are referenced in the petition and enclosed therewith.

The petitioners have made a sufficient showing of nonreceipt of the Notices of Allowance and Allowability. Accordingly, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The petition is **GRANTED.**

The application file is being referred to Technology Center 2821 technical support staff for remailing of the Notice of Allowance and Fee(s) Due and Notice of Allowability both mailed on 13 April, 2004. The period for reply will be reset from the mailing date thereof.

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 : 4/21/05

TO SPE OF : ART UNIT 2652

SUBJECT : Request for Certificate of Correction on Patent No.: 6853516 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.

- [X] **Approved** — **All** changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments:

HOA T. NGUYEN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600
7/24/06

SPE — 2627 **Art Unit**

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WASHINGTON DC 20004

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Fumitsugu Fukuyo et al :
Application No. 10/385,696 :
Filed: March 12, 2003 :
Attorney Docket No. 046124-5202 :

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 March 18, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2813 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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ALEXANDRIA, VA 22320

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OFFICE OF PETITIONS

In re Application of
Kinya Ozawa, et al.
Application No. 10/385,749
Filed: March 12, 2003
Attorney Docket No.: 115401

ON PETITION

This is a decision on the petition, filed January 20, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on November 1, 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 2871 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1]The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: " Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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MINNEAPOLIS, MN 55440-1022

Mail Date: 04/20/2010

Applicant	: Albert B. Barabas	: DECISION ON REQUEST FOR
Patent Number	: 7587428	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/385,758	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/11/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1245** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 6

BARNES & THORNBURG
P.O. Box 2786
Chicago, IL 60690-2786

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JAN 07 2004

OFFICE OF PETITIONS

In re Application of
Michael Thomas et al.
Application No.10/385,787
Filed: March 11, 2003
Attorney Docket No. 920576-905940

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR § 1.47(a), filed December 8, 2003 (certificate of mailing date December 5, 2003).

The petition under 37 CFR. § 1.47(a) is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR. § 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application**. Any extensions of time will be governed by 37 CFR. §1.136(a).

The above-identified application was filed on March 11, 2003, without an executed oath or declaration. Accordingly, on June 5, 2003, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring for the purposes of an executed oath or declaration in compliance with § 1.63, and a surcharge for its late filing. This Notice set an extendable two-month period for reply of August 5, 2003.

In reply, applicant filed a petition, the surcharge for late filing of the declaration, and a partially executed declaration. To make the reply timely, a four (4) month extension of time was also submitted. In support of the petition, applicants submitted copies of correspondence as well as a declaration of Kellee A. Cappas, President of MEI Technology Company, LLC .

A grantable petition under 37 CFR. § 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. The instant petition does not satisfy requirements (1) and (2).

As to item (1), rule 47 applicant has failed to provide a clear record to illustrate a copy of the application papers were ever presented to inventors Thomas and Gieseking . The Declaration of Kellee Cappas states a Declaration and Power of Attorney were delivered to the non-signing inventors. However it is not clear that the application papers (specification,

including claims, drawings, and oath or declaration) were presented. Before a refusal can be alleged, applicant must demonstrate a bona fide attempt was made to present a copy of application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor. See MPEP 409.03(d). If the application papers were presented to both inventors Thomas and Gieseking than such a declaration should be made.

As to item (2) the declaration executed by Inventor Winship contains non-dated/non-initialed alterations to the signature block. Such alterations render the declaration unacceptable. A newly executed declaration for inventor Winship is required. In addition the declaration executed by inventor Winship indicates Chris Gieseking is the first and third inventor. All declarations should contain a consistent order of inventorship.

As to item (4), it is presumed the last known addresses of the inventors are consistent with the addresses provided on the declaration. If this is not the case Petitioner should notify the Office and take appropriate steps to correct the omission.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(703) 872-9306
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office 2011 South Clark Place Customer Window, Mail Stop Petition Crystal Plaza Two, Lobby, Room 1B03 Arlington, VA 22202

Telephone inquiries related to this decision may be directed to the undersigned at (703) 306-0251.

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Paper No. 9

BARNES & THORNBURG
P.O. Box 2786
Chicago IL 60690-2786

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JUL 2 0 2004

OFFICE OF PETITIONS

In re Application of Michael Thomas, Greg Brandt, Chris Gieseking and Dave Winship Application No.10/385,787 Filed: March 11, 2003 Attorney Docket No. 920576-905940 Title of Invention: Cryogenic Gas-Assisted Mechanical Refrigeration Cooling System Apparatus and Method	DECISION GRANTING STATUS UNDER 37 CFR 1.47(A)

This is in response to the renewed petition under 37 CFR 1.47(a) filed July 14, 2004.

Petitioner has shown that the non-signing inventors have refused to join in the filing of the above-identified application after having been presented with the application papers. The petition attest a copy of the application was sent to the non-signing inventors' last known addresses. The non-signing inventors' failure to respond to the application mailing establishes that both inventors (Gieseking and Thomas) refuse to execute the application papers.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This application is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this communication should be directed to the undersigned at (703) 306-0251.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Michael Thomas
14627 N. Amber Lane
Effingham, IL 62401

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OFFICE OF PETITIONS

In re Application of
Michael Thomas, Greg Brandt, Chris Gieseking and Dave Winship
Application No.10/385,787
Filed: March 11, 2003
Attorney Docket No. 920576-905940
Title of Invention: Cryogenic Gas-Assisted Mechanical Refrigeration Cooling System Apparatus and Method

LETTER

Dear Mr. Thomas:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 C.F.R. § 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost as per 37 C.F.R. § 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, applicant (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. § 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Charlema R. Grant at (703) 306-0251. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Charlema R. Grant
Petitions Attorney
Office of Petitions

Mark Hagedorn
BARNES & THORNBURG
P.O. Box 2786
Chicago IL 60690-2786

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Chris Gieseking
75 Wilderness Lane
Defiance, MO 63341-2402

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JUL 2 0 2004

OFFICE OF PETITIONS

In re Application of
Michael Thomas, Greg Brandt, Chris Gieseking
and Dave Winship
Application No.10/385,787
Filed: March 11, 2003
Attorney Docket No. 920576-905940
Title of Invention: Cryogenic Gas-Assisted
Mechanical Refrigeration Cooling System
Apparatus and Method

LETTER

Dear Mr. Gieseking:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 C.F.R. § 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost as per 37 C.F.R. § 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, applicant (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. § 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Charlema R. Grant at (703) 306-0251. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

Mark Hagedorn
BARNES & THORNBURG
P.O. Box 2786
Chicago IL 60690-2786

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WELSH & KATZ, LTD
120 S RIVERSIDE PLAZA
22ND FLOOR
CHICAGO, IL 60606

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JAN 06 2006
OFFICE OF PETITIONS

In re Application of :
Jan Ando :
Application No. 10/385,788 :
Filed: March 11, 2003 : ON PETITION
Title of Invention: :
METHOD FOR MANUFACTURING SOCKS :
WITH A CIRCULAR KNITTING MACHINE :
HAVING AT LEAST TWO FEEDS OR DROPS :

This is a decision on the Request for Reinstatement, filed April 16, 2004. The petition is properly treated as a Petition to Withdraw Holding of Abandonment under 37 CFR 1.181. The delay in treating this petition is regretted.

The petition is **granted.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed September 25, 2003. The Office action set a three (3) month period for reply, and provided for extensions of time under 37 CFR 1.136(a). No reply having been received, the application became abandoned on December 26, 2003. A Notice of Abandonment was mailed April 6, 2004.

Applicant's Assertion

Applicant responds with the instant petition wherein Applicant avers that a timely reply was filed on November 17, 2003, and was received by this Office as evidenced by Applicant's return-receipt postcard. In support of this assertion, Applicant provides a copy of a return-receipt postcard. A review of the return-receipt postcard reveals that it acknowledges receipt of a Response to Restriction Requirement by this Office on November 20, 2003. Applicant also provides a copy of a Response to Restriction Requirement. A review of the Response to Restriction Requirement reveals that it contains a USPTO date stamp of November 20, 2003; a

Certificate of Mailing dated November 17, 2003, and a stamp from Technology Center R3700 acknowledging receipt of the Response to Restriction Requirement on November 25, 2003.

Under 37 CFR 1.8

> "[c]orrespondence required to be filed in the Patent and Trademark Office within a set period of time will be considered timely filed if the procedure described in this section is followed. The actual date of receipt will be used for all other purposes.
>
> (1) Correspondence will be considered as being timely filed if:
>
> (i) The correspondence is mailed or transmitted prior to the expiration of the set period of time by being:
>
> (A) Addressed as set out in § 1.1(a) and deposited with the U.S. Postal Service with sufficient postage first class mail; or
>
> (B) Transmitted by facsimile to the Patent and Trademark Office in accordance with § 1.6(d); and
>
> (ii) The correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The person signing the certificate should have a reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated.

Moreover, "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.

Accordingly, the petition is <u>granted</u>.

The copy of the Response to Restriction Requirement, filed with the instant petition on April 16, 2004, will be used for examination purposes.

No petition fee has been charged and none is due.

In view of the foregoing, the holding of abandonment is hereby withdrawn.

The application file is being referred to Technology Center Art Unit 3765 for continued processing in due course.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ALCON
IP LEGAL, TB4-8
6201 SOUTH FREEWAY
FORT WORTH, TX 76134

Mail Date: 05/10/2010

Applicant	: Theron Robert Rodstrom	: DECISION ON REQUEST FOR
Patent Number	: 7621907	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/385,791	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/11/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **504** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
10/385,814	3/11/03	Alan Jenkins	18028

EXAMINER
Andrea, Brian
Art Unit 3662

DATE MAILED:

This is a communication from the examiner in charge of your application
COMMISSIONER OF PATENTS AND TRADEMARKS

The petition filed September 29, 2004 under 37 CFR §1.97(d)(2)(ii) for consideration of an information disclosure statement filed after allowance has been:

[X] GRANTED.

[ ] DENIED.

The petition lacks:

[ ] The required fee under 37 CFR §§1.97(d)(2)(iii) and 1.17(i)(1).

[ ] A proper certification as specified in 37 CFR §§1.97(d)(2)(i) and 1.97(e)

The information disclosure statement has been placed of record in the file but will not be considered by the examiner.

Thomas H. Tarcza

Thomas H. Tarcza
SPE Art Unit 3662
703-306-4171

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: —

DATE : 7/9/07

TO SPE OF : ART UNIT 2183

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/385854 Patent No: 7194602 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: Yes. Enter the request D.P. 11/28/07

Eddie Chan 2183
SPE **Art Unit**

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JAMES W. POTTHAST
10606 DEERPATH ROAD
WOODSTOCK, IL 60098

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MAR 27 2006

OFFICE OF PETITIONS

In re Application of	:	
Robert J. Bretl et al	:	
Application No. 10/385,874	:	ON PETITION
Filed: March 11, 2003	:	
Attorney Docket No. DYN-24	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 12, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed May 16, 2005 which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on August 17, 2005.

The instant 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 unintentionally delay have been received. Accordingly, the reply to the non-final Office action of May 16, 2005 is accepted as having been unintentionally delayed.

This matter will be referred to Technology Center AU 2876.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

Wan Laymon
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

Michael E. Hudzinski
FAY, SHARPE, FAGAN, MINNICH & McKEE, LLP
1100 Superior Avenue, 7th Floor
Cleveland, Ohio 44114-2518

In re:	Allin	:	DECISION ON REQUEST
Serial No.:	10/385,902	:	UNDER 37 CFR 5.25
Filing date:	11 March 2003		
Docket No:	CAPZ 2 00001		

Title: PROTECTIVE AND DECORATIVE VALANCE IN AN AWNING FOR USE WITH PERMANENT BUILDING STRUCTURES

In view of the communication(s) filed 5 September 2003, it has been determined that a retroactive license for foreign filing under 35 U.S.C. 184 be granted with respect to the filings listed below. The petition complies with 37 C.F.R. 5.25 in that there is an adequate showing that the subject matter in question was not under secrecy order, that the license was diligently sought after discovery of the proscribed foreign filing, and that the material was filed abroad without the required license under 37 C.F.R. 5.11 first having been obtained through error and without deceptive intent.

Country	Date
Canada	3 April 2003

Approved:

Andrea M. Valenti

Andrea M. Valenti
Patent Examiner
Group 3643
(703) 305-3010

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)
6666773	2003-12-23	10385903	2003-03-10	TR02-01

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	◉	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/angus cannon fox/	Date (YYYY-MM-DD)	2009-06-22
Name	Angus C. Fox, III	Registration Number	31828

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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In re Patent No. 6666773
Issue Date: December 23,2003
Application No. 10385903
Filed: March 10,2003
Attorney Docket No. TR02-01

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed June 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 June 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.

#4
7/24/03

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COMMISSIONER FOR PATEN
UNITED STATES PATENT AND TRADEMARK OFFI
WASHINGTON, D.C. 2023
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JUL 2 4 2003

TECHNOLOGY CENTER 2100

Paper No. 4

Charles E. Shemwell
SHEMWELL GREGORY & COURTNEY LLP
4880 Stevens Creek Blvd., Suite 201
San Jose, CA 95129

In re Application of:	)	
Richard E. Perego	)	
Application No. 10/385,908	)	**DECISION ON REQUEST FOR**
Filed: March 11, 2003	)	**WITHDRAWAL AS ATTORNEY**
For: MEMORY SYSTEM AND DEVICE WITH SERIALIZED DATA TRANSFER	)	

This is a decision on the Request To Withdraw from Representation filed May 27, 2003.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The 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 May 27, 2003 meets all the requirements. Accordingly the request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

James R. Matthews

For Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture and Software
(703) 305-9750

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

DENIRO/RAMBUS
685 MARKET STREET, SUITE 540
SAN FRANCISCO, CA 94105

In re Application of :
Richard E. Perego et al :
Application No. 10/385,908 : ON PETITION
Filed: February 14, 2006 :
Attorney Docket No. RMBS.P121

This is a decision on the petition, filed January 19, 2006 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 29, 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 2182 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

Irvin Dingle
Petitions Examiner
Office of Petitions

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
www.uspto.gov

DENIRO/RAMBUS
575 MARKET STREET,SUITE 2500
SAN FRANCISCO CA 94105

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JUN 25 2007

OFFICE OF PETITIONS

In re Application of	:	
PEREGO, et al.	:	
Application No. 10/385,908	:	DECISION GRANTING PETITION
Filed: March 11, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **RMBS.P121**	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed June 21, 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 August 3, 2006 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Monica A. Graves at (571) 272-7253.

This application is being referred to Technology Center AU 2181 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

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APR 2 9 2010

OFFICE OF PETITIONS

David L. Fehrman
Morrison & Foerster LLP
35th Floor
555 W. 5th Street
Los Angeles CA 90013

In re Application of	:	
Hideki HAGIWARA	:	
Application No. 10/385,933	:	DECISION ON PETITION
Filed: March 11, 2003	:	
Attorney Docket No. 393032036600	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 19, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand 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 of 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

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 17, 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 (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No

extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is September 18, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal; (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Olisa Anwah at (571) 272-7099 or in his absence, the undersigned at (571) 272-7099.

This application is being referred to Technology Center AU 2614 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

David A. Bucci
Petitions Examiner
Office of Petitions

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/385,934	01/31/2003	2644	585	RPD 3A6B	6	35	3

CONFIRMATION NO. 8111

CORRECTED FILING RECEIPT

OC000000014340639

23581
KOLISCH HARTWELL, P.C.
520 S.W. YAMHILL STREET
SUITE 200
PORTLAND, OR 97204

Date Mailed: 11/12/2004

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Robert J. Brice, Eugene, OR;
Steve K. Chin, Eugene, OR;

Power of Attorney: The patent practitioners associated with Customer Number **23581**.

Domestic Priority data as claimed by applicant

This application is a CON of 09/902,867 07/10/2001 ABN

Foreign Applications

If Required, Foreign Filing License Granted: 05/08/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/385,934

Projected Publication Date: 11/25/2004

Non-Publication Request: No

Early Publication Request: No

** SMALL ENTITY **

Title

Automobile audio system

Preliminary Class

381

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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Paper No. 8

KOLISCH HARTWELL, P.C.
520 S.W. YAMHILL STREET
SUITE 200
PORTLAND, OR 97204

COPY MAILED
JUL 2 6 2004
OFFICE OF PETITIONS

In re Application of :
Brice et al. :
Application No. 10/385,934 : ON PETITION
Filed: February 6, 2003 :
Attorney Docket No. RPD 3A6B :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed July 12, 2004, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (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. A Notice of Abandonment was mailed on February 10, 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, including processing of the Request for a Corrected Filing Receipt.

Telephone inquiries should be directed to the undersigned at (703) 306-0482.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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BRIAN M BERLINER, ESQ
O'MELVENY & MYERS, LLP
400 SOUTH HOPE STREET
LOS ANGELES CA 90071-2899

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AUG 2 0 2007

OFFICE OF PETITIONS

In re Application of	:	
HUANG, Chih-Wei	:	
Application No. 10/385,959	:	DECISION ON PETITION
Filed: March 11, 2003	:	TO WITHDRAW
Attorney Docket No. **401720-5**	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 29, 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 Brian M. Berliner on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Chih-Wei Huang at the address indicated below.

There is an outstanding Office action mailed April 07, 2006 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

T. Williams
Terri Williams
Petitions Examiner
Office of Petitions

cc: **MR. CHIH-WEI HUANG**
c/o LEO CAPITAL MANAGEMENT, INC.
620 NEWPORT CENTER DRIVE
SUITE 1100
NEWPORT BEACH, CA 92660

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/385,959	03/11/2003	Chih-Wei Huang	401720-5

CONFIRMATION NO. 5936

OC000000025403968

23879
BRIAN M BERLINER, ESQ
O'MELVENY & MYERS, LLP
400 SOUTH HOPE STREET
LOS ANGELES, CA 90071-2899

Date Mailed: 08/16/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/29/2007.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

Michelle R. Eason

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

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FULWIDER PATTON
6060 CENTER DRIVE
10TH FLOOR
LOS ANGELES, CA 90045

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DEC 2 1 2006

OFFICE OF PETITIONS

In re Application of	:	
Gosiengfiao et al.	:	
Application No. 10/385,987	:	
Filing or 371(c) Date: 03/11/2003	:	
Title of Invention:	:	
GUIDING CATHETER SHAFT WITH	:	
IMPROVED RADIOPACITY ON THE	:	
WIRE BRAID	:	ON PETITION

This is a decision on the Letter and Petition, filed August 25, 2006, requesting withdrawal of the holding of abandonment, or alternatively, revival of the application based upon unavoidable delay in responding o the Office action. The petition is properly treated under 37 CFR 1.181(a), or alternatively under 37 CFR 1.137(a). The delay in treating this petition is regretted.

This Petition under 37 CFR 1.181(a), is hereby **granted**.

This Petition under 37 CFR 1.137(a), is hereby **dismissed as moot.**

The above-identified application became abandoned for failure to timely and properly reply to the non-final office action, mailed September 13, 2004. The Office action set a three (3) month period for reply, and provided for extensions of time under 37 CFR 1.136(a). No response having been received, the application became abandoned on December 15, 2004. A Notice of Abandonment was mailed August 8, 2006.

Applicant files the present petition and asserts that a timely reply to the Office action was filed on October 12, 2004. In support of this assertion, Applicant files a copy of a return receipt postcard acknowledging receipt by this office of a Transmittal and an Amendment on October 18, 2004. Applicant also files a copy of the Transmittal and Amendment with the present petition.

A review of the Transmittal and Amendment reveal that they both contain a Certificate of Mailing dated October 12, 2004; however, a statement of first hand knowledge from the person executing the Certificate of Mailing in accordance with 37 CFR 1.8(b)(3) has not been provided.

In accordance with 37 CFR 1.6, the date of receipt, October 18, 2004, is the filing date accorded the correspondence[1].

In view of the foregoing, the petition is granted. The holding of abandonment is hereby withdrawn.

No fee has been charged and none is due.

The application will be referred to Technology Center Art Unit 3767 for processing of the A/amendment.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

[1] Applicant may request reconsideration of the filing date accorded the correspondence. Any request for reconsideration should include a statement from a person with first hand knowledge of the timely mailing of the correspondence.

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Anderson Gorecki & Manaras LLP
33 NAGOG PARK
ACTON, MA 01720

Mail Date: 05/03/2010

Applicant	: David Allan	: DECISION ON REQUEST FOR
Patent Number	: 7620712	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/385,995	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/11/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1812** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Anderson Gorecki & Manaras LLP
33 NAGOG PARK
ACTON, MA 01720

Mail Date: 04/20/2010

Applicant	: David Allan	: DECISION ON REQUEST FOR
Patent Number	: 7610360	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/385,996	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/11/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1831** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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LADAS & PARRY
5670 WILSHIRE BOULEVARD, SUITE 2100
LOS ANGELES, CA 90036-5679

In re Application of :
Hung-Ming Tseng :
Application No. 10/386,012 : ON PETITION
Filed: March 10, 2003 :
Attorney Docket No. B-4994 620738-3 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 9, 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 March 22, 2006. Accordingly, this application became abandoned on March 23, 2006. A Notice of Abandonment was mailed on May 1, 2006.

It is noted that Robert Papa is not currently listed as an attorney of record on the above-identified application. As such, 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.

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

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HOGAN & HARTSON
500 S. GRAND AVENUE
SUITE 1900
LOS ANGELES, CA 90071-2611

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APR 22 2004

OFFICE OF PETITIONS

In re Application of :
Ahmad Khanifar et al :
Application No. 10/386,013 : NOTICE
Filed: March 11, 2003 :
Attorney Docket No. 89160.0028 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (703) 305-9285.

This application file is being referred to Technology Center AU 2817.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 10/386028

Paper No.: —

DATE : 9/8/05

TO SPE OF : ART UNIT ~~3MB6~~ 2827

SUBJECT : Request for Certificate of Correction on Patent No.: 6813178 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

2827
Art Unit

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0 1 AUG 2003

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Young & Thompson
745 South 23rd Street, 2nd Floor
Arlington, VA 22202

In re Application of MATSUYAMA, Kenji Application No.: 10/386,050 Filing Date: 12 March 2003 Attorney Docket No.: 8062-1001-1 For: ANTIBODIES FOR DETECTING MICROORGANISMS	:	DECISION ON PETITION UNDER 37 CFR 1.137(b)

Applicant's petition "Petition to Revive Unintentionally Abandoned Application Under 37 CFR 1.137(b)," filed in the United States Patent and Trademark Office on 12 March 2003 is **GRANTED**.

BACKGROUND

On 12 March 2003, applicant filed a Utility Patent Application Transmittal for new nonprovisional application under 37 CFR 1.53(b) accompanied by a specification and a petition to revive.

On 20 May 2003, the Initial Patent Examination Division (IPED) mailed a "Notice to File Missing Parts of Nonprovisional Application," informing applicant that the application was an oath or declaration, the fee for late filing of the oath or declaration and a sequence listing in computer readable form.

On 12 June 2003, applicant submitted an Information Disclosure Statement.

08/06/2003 SHAJARRO 00000006 250120 10386050

01 FC:1453 1300.00 DA

DISCUSSION

A petition to revive an abandoned application under 37 CFR 1.137(b) must be filed without intentional delay from the time the application became abandoned and/or applicant first became aware of the abandoned status of the application. A petition under 37 CFR 1.137(b) must be accompanied by (1) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, (2) a proposed response, (3) the petition fee required by law (37 CFR 1.17(m)), and (4) a terminal disclaimer and fee (if the international application was filed prior to June 8, 1995).

Applicant states "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 petition fee will be charge to deposit account number 25-0120, as authorized. A proper response in the form of a continuing application under

35 U.S.C. 111(a) has been submitted. A terminal disclaimer is not required as the application was filed on or after 08 June 1995. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

CONCLUSION

The petition to revive international application PCT/JP01/00625 abandoned under 37 CFR 1.137(b) is **GRANTED** as to the National Stage in the United States of America 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 10/386,050.

This application is being forwarded to the Office of Initial Patent Examination for processing as a regular U.S. application under 35 U.S.C. 111(a).

Erin M. Pender

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: (703) 305-0455
Facsimile: (703) 308-6459

PCT/US01/00625 . 05.11.2003

05 NOV 2003

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Young & Thompson
745 South 23rd Street, 2nd Floor
Arlington, VA 22202

In re Application of MATSUYAMA, Kenji Application No.: 10/386,050 Filing Date: 12 March 2003 Attorney Docket No.: 8062-1001-1 For: ANTIBODIES FOR DETECTING MICROORGANISMS	DECISION ON PETITION UNDER 37 CFR 1.137(b)

Applicant's petition "Petition to Revive Unintentionally Abandoned Application Under 37 CFR 1.137(b)," filed in the United States Patent and Trademark Office on 12 March 2003 is **GRANTED**.

BACKGROUND

On 12 March 2003, applicant filed a Utility Patent Application Transmittal for new nonprovisional application under 37 CFR 1.53(b) accompanied by a specification and two petitions to revive.

On 20 May 2003, the Initial Patent Examination Division (IPED) mailed a "Notice to File Missing Parts of Nonprovisional Application," informing applicant that the application was an oath or declaration, the fee for late filing of the oath or declaration and a sequence listing in computer readable form.

On 12 June 2003, applicant submitted an Information Disclosure Statement.

On 01 August 2003, the Office mailed Decision On Petition Under 37 CFR 1.137(b) reviving PCT/US01/00625.

On 20 October 2003, applicant submitted a copy of the instant petition accompanied by a post card receipt.

DISCUSSION

A petition to revive an abandoned application under 37 CFR 1.137(b) must be filed without intentional delay from the time the application became abandoned and/or applicant first became aware of the abandoned status of the application. A petition under 37 CFR 1.137(b) must be accompanied by (1) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, (2) a proposed

response, (3) the petition fee required by law (37 CFR 1.17(m)), and (4) a terminal disclaimer and fee (if the international application was filed prior to June 8, 1995).

Applicant states "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 petition fee will be charged to deposit account number 25-0120, as authorized. A proper response in the form of a continuing application under 35 U.S.C. 111(a) has been submitted. A terminal disclaimer is not required as the application was filed on or after 08 June 1995. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

CONCLUSION

The petition to revive international application PCT/JP01/00626 abandoned under 37 CFR 1.137(b) is **GRANTED** as to the National Stage in the United States of America 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 10/386,050.

This application is being forwarded to the Office of Initial Patent Examination for processing as a regular U.S. application under 35 U.S.C. 111(a).

Erin M. Pender

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: (703) 305-0455
Facsimile: (703) 308-6459

PCT/US01/00625 .05.11.2003

YOUNG & THOMPSON
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October 20, 2003

VIA TELEFAX: 703-308-6459

RECEIVED
20 OCT 2003
Legal Staff
International Division

To: Erin M. Pender
Attorney Advisor
PCT Legal Administration
United States Patent and Trademark Office

Dear Ms. Pender:

Re: Kenji MATSUYAMA et al.
U.S. Patent Appln. 10/386,050
Attorney Docket No. 8062-1001-1

Pursuant to our telephone conversation of October 16, 2003, transmitted hereafter is a copy of the Petition to Revive International Application PCT/JP01/00626. A copy of the postcard receipt confirming that we filed this petition on March 12, 2003 is also transmitted hereafter.

Your prompt attention to this matter is greatly appreciated.

Respectfully submitted,

YOUNG & THOMPSON

By Philip A. Dubois
Philip A. Dubois
Agent for Applicants
Registration No. 50,696

/06/2003 LLANDGRA 00000068 250120 10386050
FC:1453 1300.00 DA

Attorney Docket No. 8062-1001-2

PATENTS

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Monzur RAHMAN et al.

PCT JP01/00626

Filed January 31, 2001

ANTIBODY FOR DETECTING MICROPLASMA PNEUMONIAE

BOX PCT

PCT LEGAL OFFICE

PETITION TO REVIVE UNINTENTIONALLY ABANDONED APPLICATION UNDER 37 CFR 1.137(b)

Assistant Commissioner for Patents

Washington, D.C. 20231

Sir:

On January 31, 2001, Applicants filed International Application PCT/JP01/00626, which designated the United States, and which claimed priority of earlier Japanese Application No. 2000-062729 filed January 31, 2000. A demand was timely filed. Accordingly, the 30-month period for entering the United States as an Elected Office pursuant to 37 CFR 1.495 expired at midnight on July 31, 2002. Since none of the elements required for entry into the national stage under 35 USC 371(c) were filed by that date, the International application became abandoned as to the United States on July 31, 2002.

Applicants state through their foreign Attorney, that the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

It is respectfully requested that the above-identified application be revived for the purpose of gaining co-pendency

PCT/JP01/00626 filed January 31, 2001

with a new continuation-in-part application, which is being filed this same day.

This continuation-in-part application claims priority to 1) the above-identified International Application PCT/JP01/00626, 2) copending United States patent application No. 09/744,910 and 3) International Application PCT/JP01/00625. A petition under 37 CFR 1.137(b) is also being filed on this same date to revive International Application PCT/JP01/00625 for purposes of copendency.

The present International Application is to be abandoned, only after a filing date has been granted to the continuation-in-part application filed on even date herewith. A copy of the transmittal letter for the new C-I-P application is enclosed for the convenience for the convenience of the PCT Legal Examiners.

The requisite 37 CFR statute 1.17(m) petition fee in the amount of $1,300, is authorized to be debited from counsel's Deposit Account 25-0120.

Respectfully submitted,

YOUNG & THOMPSON

By _____

Philip A. DuBois
Agent for Applicants
Registration No. 50,696
745 South 23rd Street
Arlington, VA 22202
Telephone: 703/521-2297

March 12, 2003

Attorney Docket No. 8062-1001-3
Confirmation No.

THE STAMP OF THE PATENT OFFICE MAIL HEREON ACKNOWLEDGES THE RECEIPT OF THE BELOW-IDENTIFIED DOCUMENT ON THE DATE INDICATED BY SUCH STAMP.

In re: Monzur RAHMAN et al. BOX PCT
S.N. PCT JP01/00626 Group Legal Office

PETITION TO REVIVE UNINTENTIONALLY ABANDONED APPLICATION UNDER 37 cfr 1.137(b) (2 copies charge dep.acct.); WO 01/57199; and copy of transmittal letter for CIP filed 3-12-03 attached

OIPE JC174
MAR 1 2 2003
PATENT & TRADEMARK OFFICE

PD/bsg Date: 3/12/03
mcf

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

LOUIS J. WILLE
BRISTOL-MYERS SQUIBB COMPANY
PATENT DEPARTMENT
P O BOX 4000
PRINCETON, NJ 08543-4000

COPY MAILED

MAR 26 2007

OFFICE OF PETITIONS

In re Application of	:	
Gregory D. Vite et al	:	
Application No. 10/386,059	:	DECISION ON PETITION
Filed: March 11, 2003	:	
Attorney Docket No. LD0225 NP	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 2, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before October 27, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed July 27, 2006. Accordingly, the date of abandonment of this application is October 28, 2006. A Notice of Abandonment was mailed on March 5, 2007, subsequent to the filing of the present petition to revive.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,400 and the publication fee of $300, (2) the petition fee of $1,500, and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fees are accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

This application is being referred to Publishing Division for appropriate processing in accordance with this decision on petition.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE

GE HEALTHCARE, INC.
IP DEPARTMENT
101 CARNEGIE CENTER
PRINCETON, NJ 08540-6231

Paper#: 20080218-A

In re application of		:DECISION ON PETITION
PETERSSON ET AL.		: TO ACCEPT
Serial No.	:10/386,060	: COLOR IMAGES
Filed	:March 11, 2003	:
For	: **METHOD OF CONTRAST ENHANCED MAGNETIC RESONANCE IMAGING: AND COMPOUNDS USEFUL THEREFOR**	:

A Petition Under 37 CFR 1.84(a)(2) for Submission of Color Drawings was submitted in connection with the above-identified application on July 20, 2000. The petition was accompanied by: (1) the requisite three sets of Drawings; (2) the requisite petition fee; and (3) a showing that color drawings are the only practical medium by which to disclose the subject matter sought to be patented in the patent application. Accordingly, the color drawings are acceptable.

The petition is **GRANTED**.

/Brian L Casler/
Supervisory Patent Examiner, Art Unit 3737

UNITED STATES 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 94111-4156

COPY MAILED
SEP 25 2006
OFFICE OF PETITIONS

In re Application of	:	
Mark Abramson	:	
Application No. 10/386,063	:	ON PETITION
Filed: March 10, 2003	:	
Attorney Docket No. ABRAMSON		

This is a decision on the petition filed, September 19, 2006 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on April 17, 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 3743 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. 3

Pennie & Edmonds, LLP
3300 Hillview Avenue
Palo Alto, CA 94304

COPY MAILED

NOV 0 4 2003

OFFICE OF PETITIONS

In re Application of :
Srinivasan et al. :
Application No. 10/386,079 : DECISION ON PETITION
Filed: **March 10, 2003** :
Attorney Docket No. 11114-005-999 :

This is a decision on the "PETITION TO CORRECT FILING DATE UNDER 37 C.F.R. § 1.10(c) AND REQUEST FOR CORRECTED FILING RECEIPT," filed July 11, 2003[1], requesting that the above-identified application be accorded a filing date of March 10, 2003, rather than the presently accorded filing date of March 11, 2003.

Petitioner maintains that on March 10, 2003, the application was deposited as "Express Mail" in the U.S. Postal Service. In support thereof, applicants submit, *inter alia*, the following documents:

- a copy of the utility patent application transmittal;
- a copy of a Express Mail Certification, which appears to comport to a Express Mail mailing log; and
- a copy of Express Mail mailing label No. EL451599730US.

Paragraph (a) of 37 CFR 1.10 states that:

> Any correspondence received by the Patent and Trademark Office (Office) that was delivered by the "Express Mail Post Office to Addressee" service of the United States Postal Service (USPS) will be considered filed in the Office on the date of deposit with the USPS. <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).
>
> (Emphasis supplied).

---

[1] This petition was resubmitted by facsimile transmission on October 17, 2003, with persuasive evidence that it should be considered timely filed July 11, 2003.

Paragraph (c) 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 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.

The instant petition was filed promptly within the meaning of § 1.10(c)(1). The application transmittal submitted on petition is a true copy of the transmittal received on filing of this application; itemizes the papers being filed in this application; and bears the "Express Mail" mailing label number "EL451599730US" thereon. Thus, petitioner has shown that the number of the Express Mail mailing label was placed on the correspondence prior to the original mailing by Express Mail.

The Express Mail mailing label No. EL451599730US bears both a handwritten date-in of March 10, 2003, and a USPS postmark dated March 10, 2003.

In view thereof, the petition is GRANTED.

No petition fee is required.

Petitioner is advised, however, that the mailing of multiple patent applications and other documents in a single Express Mail envelope may lead to the inability to establish that any components deemed missing by the Office were in fact present in the Express Mail mailing.

The application is being forwarded to the Office of Initial Patent Examination (OIPE) for **correction of the filing date to March 10, 2003** and **mailing of a corrected filing receipt**.

Telephone inquires related to this decision may be directed to the undersigned at (703) 305-0309.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4-23-08

TO SPE OF : ART UNIT 2616

SUBJECT : Request for Certificate of Correction on Patent No.: 7283563C 10/386091

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Should priority data be entered?

Eva James

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-305-8309

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☑ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

Does not change scope.

Nancy Le Chan — **SPE**

2619 — **Art Unit**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Allan U.S. Patent No.: 7,283,563 Issued: October 16, 2007 Title: Method for Using a Verification Probe in an LDP MPLS Network Attorney Docket: 120-029	

REQUEST FOR CERTIFICATE OF CORRECTION

Certificate of Correction Branch
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Pursuant to 35 U.S.C. § 254, we hereby request a Certificate of Correction be issued for the above-referenced U.S. Letters Patent for the following reason:

Errors appear in the above-identified patent.

Therefore, please amend the specification and insert as follows:

Respectfully submitted,

By /Holmes W. Anderson
Holmes W. Anderson
Reg. No. 37,272

Date: 25 February 2008

Telephone No.: 978-264-4001

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, or the correspondence is being facsimile transmitted to the USPTO, on the date indicated below.

Date of Deposit: 25 Feb 2008

Typed Name: Holmes W. Anderson

Signature: _____

PTO/SB/44 (07-03)
Approved for use through 01/31/2004. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7283563
DATED : 10/16/2007
INVENTOR(S) : Allan

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:

Applicant claims priority to U.S. provisional applications 60/384,546 filed 5/30/2002 and 60/424,143 filed 11/06/2002.

At column 5, line 25 and 60 (the subscript TT should read π).

MAILING ADDRESS OF SENDER:
McGuinness & Manaras LLP
125 Nagog Park
Acton, MA 01720

PATENT NO: 7283563

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 for to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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MICHAEL S. NEUSTEL
SUITE NO. 4
2534 SOUTH UNIVERSITY DRIVE
FARGO, ND 58103

COPY MAILED

JUN 21 2005

OFFICE OF PETITIONS

In re Application of :
Robert L. Mallory, et al. :
Application No. 10/386,095 :
Filed: March 10, 2003 :
Attorney Docket No. DEXI-001 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed February 25, 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 May 18, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on August 19, 2004.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137 (b) in that (1) the reply in the form of an Amendment; (2) the petition fee; (3) the required statement of unintentional delay have been received. Accordingly, the petition filed February 25, 2005 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

The application matter is being referred to Technology Center 3600, Art Unit 3632 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

POSZ LAW GROUP, PLC
12040 SOUTH LAKES DRIVE
SUITE 101
RESTON, VA 20191

COPY MAILED

OCT 25 2006

OFFICE OF PETITIONS

In re Patent No. 6,785,117 :
Issued: August 31, 2004 :
Application No. 10/386,100 :
Filed: March 12, 2003 :
Attorney Docket Number: 01-400 :

ON PETITION

This is a decision on the petition, filed July 29, 2004, under 37 CFR 1.183, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee information on the front of the Patent.

The petition is **GRANTED**.

Petitioner states that the correct assignee information is DENSO CORPORATION, KARIYA, JAPAN and that the PTOL-85(b) inadvertently listed the assignee information incorrectly. Accordingly, petitioner requests that a certificate of correction be issued to reflect the correct assignee information on the front page of the Letters Patent.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

The request was accompanied by a certificate of correction (and fee) as required by 3.81(b). Further, Office assignment records reflect that DENSO CORPORATION is the assignee of record and that it should have been listed as DENSO CORPORATION, KARIYA, JAPAN. Accordingly, as the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to issue.

---

[1] *See* Official Gazette of June 22, 2004

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3212. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

This matter is being referred to the Certificates of Correction Branch for issuance of a certificate of correction.

Patricia Faison-Ball

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

ROTHWELL, FIGG, ERNST & MANBECK, P.C.
1425 K STREET, N.W.
SUITE 800
WASHINGTON, DC 20005

COPY MAILED

APR 2 7 2005

OFFICE OF PETITIONS

In re Application of
Vicars et al.
Application No. 10/386,107
Patent No. 6,796,762
Filed: March 12, 2003
Issued: September 28, 2004
Attorney Docket No. 1994-270

DECISION ON PETITION
NOTICE OF ABANDONMENT

This is a decision on the petition under 37 CFR 1.137(a), filed December 8, 2004, and supplemented March 29, 2005, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)."

Facts:

A Notice to File Missing Parts was mailed on May 12, 2003. The Notice set a two month extendable time period for reply.

Petitioner filed a reply on June 5, 2003. However, the reply did not include payment of the filing fee and surcharge. In addition, the reply did not include a signed oath or declaration.

A Notice of Incomplete Reply was mailed on August 28, 2003. The new Notice did not set a new time period for petitioner to file a reply. Instead, the time period for reply remained the time period set forth in the Notice to File Missing Parts.

The filing fee, surcharge, and a signed declaration were filed on September 10, 2003. A two month extension of time was not obtained. Therefore, the reply was untimely.

Since a proper reply to the Notice to File Missing Parts was never timely filed, the application became abandoned on July 13, 2003.

Analysis:

A grantable petition under 37 CFR 1.137(a) must be accompanied by 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.

The application became abandoned because petitioner did not pay for a two month extension of time on September 10, 2003. The petition fails to provide any explanation for the failure to pay

for a two month extension of time. Therefore, petitioner has failed to establish the abandonment of the application was unavoidable.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (703) 872-9306
Attn: Office of Petitions

If a request for reconsideration is filed, and a decision on the new petition is not received within three months, petitioner may wish to call the number below to check on the status of the renewed petition.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

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

DAVID J. GASKEY
CARLSON GASKEY & OLDS, P.C.
400 WEST MAPLE, SUITE 350
BIRMINGHAM, MI 48009

COPY MAILED

APR 2 2 2004

OFFICE OF PETITIONS

In re Application of :
James R. Thomas et al :
Application No. 10/386,122 :
Filed: March 11, 2003 :
Attorney Docket No. 67,063-007

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 1772.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ED 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

JUN 21 2004

June 18, 2004

Jacobson Holman
400 Seventh Street, N.W.
Washington DC 20004-2218

In re Application of:	:	
MCKAY, THOMAS L.	:	DECISION ON PETITION TO
Application No. 10/386,128	:	MAKE SPECIAL
Filed: March 12, 2003	:	
Attorney Docket No: P68668US0	:	

This is a decision on the petition under 37 C.F.R. § 1.102, filed November 25, 2003, to make the above-identified application special.

Petitioner requests that the above-identified application be made special under the accelerated examination procedure set forth in the Manual of Patent Examining Procedure (M.P.E.P.), Section 708.02, Item VIII: Accelerated Examination.

A grantable petition to make special under 37 C.F.R. § 1.102 and in accordance with M.P.E.P., Section 708.02, Item VIII, must be accompanied by (a) the fee set forth in 37 C.F.R. § 1.17(h), (b) a statement that all claims are directed a single invention or an offer to make an oral election without traverse should the Patent and Trademark Office hold that the claims are not directed to a single invention, (c) a statement that a pre-examination search has been made by the inventor, attorney, agent, professional searcher, etc., and a listing of the field of search by class and subclass, (d) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims, and (e) a detailed description of the submitted references and discussions pointing out how the claimed subject matter is distinguishable over these references.

The petition satisfies the above requirements. Accordingly, the petition is **GRANTED**.

After allowance, this application will be given priority for printing. See M.P.E.P. § 1309.

Inquiries regarding this decision should be directed to Lissi Mojica Marquis at (571) 272-1596.

Lissi Mojica Marquis, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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OCT 0 7 2009

Richard C. Peet
FOLEY AND LARDNER LLP
SUITE 500
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WASHINGTON DC 20007

In re Application of	:
Ochoa	:Decision on Petition
Serial No.:10/386,131	:
Filed : 12 March 2003	:
Attorney Docket No.:094338-0102	:

This letter is in response to the Petition filed on 4 September 2009 to request reconsideration of the restriction requirement mailed 5 June 2009 under 37 C.F.R. 1.144 and to request suspension of the rules under 37 CFR 1.183.

BACKGROUND AND DISCUSSION

The application, file history and petitions have been considered carefully.

Before turning to the merits of the petition, in the Final Office action mailed 5 June 2009, the examiner withdrew new claims 24-25 as being directed to an independent and distinct invention from the claims 1, 2 and 9 which were under examination. The chart below aligns the various limitations of the elected and withdrawn claims.

Claim 1	Claim 24	Claim 25.
A method of treating an argonase-I-induced T-cell mediated immune suppression in a mammal with cancer	A method of increasing the expression of the TCR-chain in T cells	The method of claim 24,
comprising the administration to said mammal of an effective amount of an inhibitor of Arginase I activity	by administration of an inhibitor of Arginase I activity.	wherein said inhibitor is
selected from the group consisting of NG-hydroxy-L-arginine (NOHA), NG-hydroxy-nor-L-arginine (nor-NoHA), 2(S)-amino-6-boronohexananoic acid (ABH), S-(2-boronoethyl)-L-cysteine (BEC), and combinations thereof.		selected from the group consisting of NG-hydroxy-L-arginine (NOHA), NG-hydroxy-nor-L-arginine (nor-NoHA), 2(S)-amino-6-boronohexananoic acid (ABH), S-(2-boronoethyl)-L-cysteine (BEC), and combinations thereof.
wherein said administration is effect to increase in said mammal, stimulated T-cell proliferation, T-cell function, TCR expression after antigen stimulation, and combinations thereof.		

In this instance, the methods of claim 24 and 25 require the same active step of administering an inhibitor of arginase I activity. Dependent claim 25 (now withdrawn) reads upon the same listing of inhibitors as in Independent Claim 1 under examination.

MPEP 806 states

> (B) Where inventions are related as disclosed but are distinct as claimed, restriction may be proper.

MPEP 806.03 states

> 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.

For this reason, Claims 24 and 25 are not patentably distinct from the claims 1, 2 and 9 under examination. The application is not in condition for Appeal. Accordingly, the Final Office action mailed 5 June 2009 is incomplete. The finality of the Office action mailed 5 June 2009 is withdrawn and prosecution is hereby re-opened.

Turning now to the petitions, 37 CFR 1.143 states:

> "If the applicant disagrees with the requirement for restriction, he may request reconsideration and withdrawal or modification of the requirement, giving the reasons therefor. (See § 1.111). In requesting reconsideration the applicant must indicate a provisional election of one invention for prosecution, which invention shall be the one elected in the event the requirement becomes final. The requirement for restriction will be reconsidered on such a request. If the requirement is repeated and made final, the examiner will at the same time act on the claims to the invention elected."

Moreover, 37 CFR 1.144 states

> After a final requirement for restriction, the applicant, in addition to making any reply due on the remainder of the action, may petition the Director to review the requirement. Petition may be deferred until after final action on or allowance of claims to the invention elected, but must be filed not later than appeal. A petition will not be considered if reconsideration of the requirement was not requested (see § 1.181).

Here, applicant did not traverse the restriction requirement. Instead applicant has filed the petition for reconsideration at the same day as applicant has filed the Appeal Brief.

DECISION

Accordingly, the petition under 37 CFR 1.144 is **DISMISSED** as untimely because it was filed on or after the Notice of Appeal was filed.

The petition filed under 37 CFR 1.183 is **DISMISSED** as premature because applicant, instead of traversing the restriction requirement, filed an Appeal Brief.

For the reasons set forth above, the finality of the Office action mailed 5 June 2009 has been withdrawn. Prosecution is hereby re-opened.

The application will be forwarded to the Examiner to consider the claim 24 and 25, consistent with this decision.

Should there be any questions regarding this decision, please contact Quality Assurance Specialist Julie Burke, by mail addressed to Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at (571) 272-0512 or by Official Fax at 571-273-8300.

John LeGuyader
Director, Technology Center 1600

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JUN 14 2007

SUGHRUE MION, PLLC
2100 Pennsylvania Avenue, NW
Washington DC 20037-3213

In re Application of: SAKATA,KEN	:	
Application No. 10/386,133	:	Decision on Petition
Filed: 3/12/2003	:	
Attorney Docket No. Q74572	:	
	:	

This is a decision on the petition filed under 37 C.F.R. § 1.324 on August 1, 2006 to correct inventorship.

The petition is GRANTED.

37 C.F.R. § 1.324 Correction of inventorship in patent, pursuant to 35 U.S.C. 256.

> (a) Whenever through error a person is named in an issued patent as the inventor, or through error an inventor is not named in an issued patent and such error arose without any deceptive intention on his or her part, the Director may, on petition, or on order of a court before which such matter is called in question, issue certificate naming only the actual inventor or inventors. A petition to correct inventorship of a patent involved in an interference must comply with the requirements of this section and must be accompanied by a motion under § 1.634.
> (b) Any petition pursuant to paragraph (a) of this section must be accompanied by:
> (1) Where one or more persons are being added, a statement from each person who is being added as an inventor that the inventorship error occurred without any deceptive intention on his or her part;
> (2) A statement from the current named inventors who have not submitted a statement under paragraph (b)(1) of this section either agreeing to the change of inventorship or stating that they have no disagreement in regard to the requested change;
> (3) A statement from all assignees of the parties submitting a statement under paragraphs (b)(1) and (b)(2) of this section agreeing to the change of inventorship in the patent, which statement must comply with the requirements of § 3.73(b) of this chapter; and
> (4) The fee set forth in § 1.20(b).

Petitioner has complied with all the above requirements by submitting the required documents in conjunction with the processing fee to correct inventorship.

The inventorship will be corrected to add inventor: Katsuhiko Hayashi.

The application file will be forwarded to the Technical Support staff for Technology Center 2800 for entry of the correction of inventorship.

Inquiries regarding this decision should be directed to Michael Lebentritt at (571) 272-1873.

Sharon Gibson, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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OFFICE OF PETITIONS

In re Application of	:	
Cook et al.	:	
Application No. 10/386,136	:	ON PETITION
Filed: March 11, 2003	:	
Attorney Docket No. 10773/22	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed January 18, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an RCE (with requisite fee) and an Amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

This matter is being referred to Technology Center 3700 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of
EDITA TEJNIL
Application No. 10/386,141
Filed: 03/10/2003
Attorney Docket No. 10559-804001/P14714

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181, filed August 29, 2005, requesting that the Office withdraw the holding of abandonment in the above-identified application.

The application became abandoned for failure to reply in a timely manner to the nonfinal Office action, mailed December 21, 2004. The Notice set a period for reply of three month shortened statutory period to reply. In the absence of a timely filed reply, the Office mailed a Notice of Abandonment on June 28, 2005. On August 29, 2005, petitioners filed the present petition in which they asserted that they filed a timely reply on March 24, 2005, bearing a certificate of mailing dated March 21, 2005.

A review of the record reveals that on March 24, 2005, the Office received petitioners' reply, which included a certificate of mailing dated March 21, 2005. However, the application number in the heading of the response identified Application No. "10/386,001" rather than the intended Application No. "10/386,141." The response was located in the file of Application No. 10/386,001. Although the USPTO received the reply, it was not timely matched with the file due to the incorrect application number.[1]

Under current Office procedure, if a paper having an incorrect application number contains sufficient information to identify the correct application and was timely received at the Office, the holding of abandonment will be withdrawn. In reviewing the papers, it is concluded that there was sufficient information thereon to associate the papers with the present application file and that it was timely received in the USPTO. See 37 CFR 1.8.

[1] The heading of this petition also identified the incorrect application, No. 10/386,001. For this reason, the petition was only recently forwarded to the Office of Petitions for a decision on the merits. The undersigned immediately reviewed the petition and issued this decision upon receipt.

Accordingly, the holding of abandonment for failure to file a timely reply to the nonfinal Office action of December 21, 2004, is hereby withdrawn and the application restored to pending status.

This application is being referred to Technology Center AU 1756 for appropriate action in the normal course of business on the reply received with petition.

Telephone inquiries regarding this decision maybe directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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ATLANTA, GA 30309-3592

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OFFICE OF PETITIONS

In re Application of	:	
William Michael Lee, et al.	:	
Application No. 10/386,145	:	ON PETITION
Filed: March 11, 2003	:	
Attorney Docket No. 041008.006	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed December 28, 2004, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on November 26, 2004, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

It is noted that the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

The application is being referred to Technology Center AU 3671 for further processing of the request for continued examination under 37 CFR 1.114 filed December 28, 2004.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: SMITH, GAMBRELL & RUSSELL, LLP
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Paper No. 3

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OFFICE OF PETITIONS

In re Application of
Asplanto
Application No. 10/386,153
Filed: March 11, 2003
Attorney Docket No. 6523-4

ON PETITION

This decision concerns the April 3, 2003 petition under 37 CFR 1.10(d).

The petition is **DISMISSED.**

The petition requests a filing date of March 10, 2003 rather than the presently accorded filing date of March 11, 2003, arguing that the application was deposited on March 10, 2003 in the U.S. Postal Service (USPS) "Express Mail Post Office to Addressee" service ("Express Mail") pursuant to the requirements of 37 CFR 1.10.

The application apparently was deposited in the "Express Mail" with a mailing label bearing the number "EL220374342US", a copy of which is enclosed with the petition. The same number also appears on the application transmittal that itemizes the application papers being deposited.

The Office notes that:

(1) The mailing label not only clearly indicates a USPS "date-in" of March 11, 2003, but also was stamped twice by the USPS with the date March 11, 2003.

(2) The information contained in the USPS official website (Track & Confirm) further confirms that the package deposited with this mailing label was accepted by the USPS on March 11, 2003 at 5:24pm.

Therefore, in accordance with 37 CFR 1.10(a)(2), March 11, 2003 is the proper filing date for this application.

The petition disputes the USPS "date-in" of March 11, 2003. In so doing, the petition relies on a "PTO Mail Log" allegedly prepared on March 11, 2003 by a Janice Forstrom ("Forstrom"), an employee of Applicant's counsel; and a declaration by Forstrom, stating that Forstrom deposited the package containing the instant application on March 10, 2003, at 5:20pm, at the Ft. Lauderdale Postal Station rather than the Miami Airport Postal Station as indicated in the USPS date stamp.

The Office agrees with counsel that, under 37 CFR 1.10(d)(3), a requested filing date may be supported by corroborating evidence such as a mail log that came into being after deposit and within one business day of the deposit of the application. However, such a mail log may be useful when the mailing label contains neither a legible "date-in" nor a USPS date-stamp.[1] Unfortunately, the Office is not authorized and has no basis to use a mail log such as the one supplied with the petition to override information unequivocally recorded by the USPS in three different forms: a "date-in" penned in by a Postal clerk; a USPS date-stamp (twice); and the date of USPS acceptance contained in the USPS electronic database.

Moreover, if the application papers were indeed deposited in the USPS "Express Mail" drop box at the Ft. Lauderdale Postal Station **before** it had been cleared for the last time on March 10, 2003, as stated in the Forstrom declaration,[2] only the USPS, and not the PTO, is in a position, if at all, to explain why this package was date-stamped by the Miami Airport Postal Station, 30 miles away,[3] **24 hours later**.

In view of the above, the petition is dismissed.

No fee is owed.

The application file is being returned to the Office of Initial Patent Examination for further processing. Upon completion of the pre-examination process, the application will be forwarded to the appropriate Technology Center for examination in due course.

Telephone inquiries should be directed to the undersigned at (703) 308-0763.

RC Tang
Petitions Attorney
Office of Petitions

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1 See MPEP section 513 DATE-IN . . . "EXPRESS MAIL" BOX RECEPTACLES & LOG BOOKS (Rev. 1, Feb. 2003) (Parties who do use drop boxes can protect themselves from uncertainty due to **illegible mailing labels** by routinely maintaining a log of "Express Mail" deposits . . .) (emphasis added)

2 Forstrom declaration, paragraph 2.

3 Petition, page 2, paragraph 2, last sentence.

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OFFICE OF PETITIONS

In re Application of :
Rekapalli Krishnamohan Rao et al :
Application No. 10/386,157 :
Filed: March 10, 2003 :
Attorney Docket No. 014444-8 :

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.55(a)(2), filed February 3, 2006, for entry of priority papers submitted after the date the issue fee was paid.

The petition is **GRANTED**.

Receipt is acknowledged of papers submitted under 35 U.S.C. § 119(a)-(d).

The priority papers are accepted as timely filed and have been placed of record in the file.

Petitioner is advised that the rule affecting the submission of a claim for priority or a certified priority document under 37 CFR 1.55(a) was changed effective November 7, 2000. In effect, the Office will permit applicants to file a priority claim or certified priority document with the processing fee set forth in 37 CFR 1.17(i) between the date the issue fee is paid and the date a patent is issued. The Office will, however, merely place such submission in the application file but will not attempt to determine whether the applicant has met the conditions of 35 U.S.C. § 119(a)-(d) to make the priority claim nor include the priority information in the text of the patent. In such a situation, the patent will not contain the priority claim information. The patentee may request a certificate of correction and a determination of entitlement for such priority will be made after the patent is granted. *See* Federal Register/Vol. 65, No. 175, September 8, 2000, page 54622.

Since this matter is presently before the deciding official in the Office of Petitions, action on the petition under 37 CFR 1.55(a)(2) has been undertaken. However, if the printing of the patent has progressed to the point where the priority data cannot be included on the printed patent, petitioner may request a certificate of correction

pursuant to the provisions of 37 CFR 323 and pay the required fee of $100.

Any questions concerning this decision should be directed to the undersigned at (571) 272-3218. Any questions concerning the issuance of a Certificate of Correction should be directed to the Certificate of Corrections Branch at (571) 272-4200.

The patent file is being directed to Publishing Division for processing into a patent.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
Philip M. WALKER :
Application No. 10/386,189 : DECISION ON PETITION
Filed: March 11, 2003 :
Attorney Docket No. 200208773-1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 31, 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 February 28, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that prima facie places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is May 29, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $ 810, and the submission required by 37 CFR 1.114; (2) the petition fee of $ 1540; and (3) a proper statement of unintentional delay.

This application has been abandoned for an extended period of time. The U.S. Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." See Changes to Patent Practice and Procedure, 62 Fed. Reg., at 53160 and 53178; 1203 Off. Gaz. Pat. Office, at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to

inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the U.S. Patent and Trademark Office).

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Telephone inquiries concerning this decision should be directed to Karin Reichle at (571) 272-6051.

This application is being referred to Technology Center AU 2115 for appropriate action by the Examiner in the normal course of business on the reply received July 31, 2008.

David Bucci
Petitions Examiner
Office of Petitions

Cc: John P. Wagner Jr.
Westridge Business Park
123 Westridge Drive
Watsonville, California 95076 USA

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OFFICE OF PETITIONS

In re Application of

Robert S. Konefal :

Application No. 10/386,192

: DECISION ON PETITION

Filed: March 10, 2003

:

Attorney Docket No. 17796 USA

This is a decision on the petition under 37 CFR 1.137(b), filed December 4, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to file a proper reply in a timely manner to the final Office action mailed May 18, 2006, which set a shortened statutory period for reply of three (3) months from its mailing date. No response was received within the allowable period. The application became abandoned on August 19, 2006. A Notice of Abandonment was mailed on December 11, 2006.

The continuing application filed November 20, 2006, is noted. The subject application is again abandoned in favor of the continuing application.

The request for an extension of time within the third month is noted, but cannot be granted as the request was made outside the maximum statutory period for reply to the final Office action. Deposit account 15-0875 will be refunded $1020.00 accordingly.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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In re Application of	:	
Michael G. Rosenblum	:	
Application No. 10/386,204	:	DECISION ON PETITION
Filed: March 11, 2003	:	
Attorney Docket No. D5442C/CIP/D	:	

This is a decision on the petition to revive under 37 CFR 1.137(b), filed September 11, 2006, which is being treated as a petition to withdraw the holding of abandonment under 37 CFR 1.181 (no fee).

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely pay the issue fee in response to the Notice of Allowance mailed April 20, 2006. This Notice set a statutory period for reply of three (3) months. No issue fee having been received, the application became abandoned by matter of law on July 21, 2006. The mailing of this decision precedes the mailing of a Notice of Abandonment.

Petitioner asserts that the Notice of Allowance was mailed to the incorrect address. A review of the record reveals that petitioner filed a Revocation and Power of Attorney and Change of Correspondence Address on December 30, 2004. It is obvious from reviewing the file that the Revocation of Power of Attorney and Change of Correspondence Address was not entered, and that the Notice of Allowance was erroneously mailed to the incorrect address.

In view thereof, **the holding of abandonment is withdrawn**.

The matter is being forwarded to Group Art Unit 1643 for re-mailing of the Notice of Allowance and Notice of Allowability, to the above address of record, setting a new period for reply.

Telephone inquiries regarding this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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Paper No. 5

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In re Application of :
Moon et al. :
Application No. 10/386,209 : DECISION ON PETITION
Filed: March 10, 2003 :
Attorney Docket Number: :
016244-000311US :

This is a decision on the Petition to Accord a Filing Date and Supplemental Preliminary Amendment, filed June 24, 2003, requesting the above-identified application be accorded a filing date of March 10, 2003.

The petition is granted.

The application was filed on March 10, 2003. On June 3, 2003, the Office of Initial Patent Examination mailed a Notice of Incomplete Nonprovisional Application (hereinafter "Notice") stating that the application had not been accorded a filing date because the application had been deposited without drawings.

Petitioner responds with the instant petition wherein Petitioner avers that the drawings in the above-identified application are not necessary to a determination of patentability.

A review of the file reveals that Petitioner is correct. The specification contains method claims (i.e., claims 1-45), and at least one claim directed to a composition (i.e. claims 46-67). As stated in MPEP § 601.01(f), it is the practice of the PTO to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence). This section of the MPEP further provides that, among "[o]ther situations in which drawings are not usually considered necessary for the understanding of the invention are articles made from a particular material or composition.

This application contains method claims and claims directed to a composition; therefore, the application should have been treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP § 601.01(g).

In applications filed without all of the drawing figure(s) referred to in the specification, the MPEP § 601.01(g) states that a "Notice of Omitted Item(s)" is mailed indicating that the application has been accorded a filing date, but is lacking some of the figures of drawings described in the specification.

In this instance, a petition is not necessary to add the drawing figures. Applicants may add figure(s) described in the specification on the basis that the drawings are not new matter. New drawings may be entered by the primary examiner without a petition so long as the drawings contain no new matter. See, MPEP § 608.02(a).

In view of the above, the Notice mailed February 7, 2003, was mailed in error and is hereby withdrawn.

This application is being forwarded to the Office of Initial Patent Examination, Customer Corrections, for further processing, with the filing date of March 10, 2003, and an indication that no drawings were required nor present on filing.

A refund of the petition fee has been scheduled.

Telephone inquiries concerning this matter should be directed to Petitions Attorney Derek L. Woods at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

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Paper No.

LAW OFFICES (San Jose)
1230 E Baseline Rd #103-248
Mesa AZ 85204

MAILED

JUN 29 2010

OFFICE OF PETITIONS

In re Application of :
Desota et al. :
Application No. 10/386,216 :
Filed: March 10, 2003 :
Attorney Docket No. :
BEA920020012US1 :
Title: PARTITIONING OF NODE :
INTO MORE THAN ONE PARTITION :

DECISION ON PETITION
UNDER 37 C.F.R. § 1.137(B)

This is a decision on the petition filed February 27, 2010, pursuant to 37 C.F.R. § 1.137(b), to revive the above-identified application.

The petition pursuant to 37 C.F.R. § 1.137(b) is **GRANTED**.

The above-identified application became abandoned due to the October 28, 2009 decision of the Board for Patent Appeals and Interferences which upheld the Examiner's rejections. Accordingly, the above-identified application became abandoned on December 29, 2009, the expiration of the period for seeking judicial review of this decision.[1, 2] A Notice of Abandonment was mailed on February 24, 2010.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply

1 See MPEP § 1216.
2 A Request for Continued Examination (RCE), along with the associated fee and an amendment were filed on January 24, 2010, however this was subsequent to the expiration of the period for response.

until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;

(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

With this petition, Petitioner filed the petition fee and the proper statement of unintentional delay. The previously submitted RCE and amendment have been accepted as the required reply under 37 C.F.R. § 1.137(b)(1). As such, the first three requirements of Rule 1.137(b) have been met. The fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.[3]

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the submission under 37 C.F.R. § 1.114 - the amendment submitted on January 24, 2010 - can be processed in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the revival has been acknowledged by the Technology Center in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.**

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[4] All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

---

3 See Rule 1.137(d).

4 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

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HUNTON & WILLIAMS LLP
INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET, N.W.
SUITE 1200
WASHINGTON, DC 20006-1109

Mail Date: 04/21/2010

Applicant	: Anthony Granite	: DECISION ON REQUEST FOR
Patent Number	: 7593875	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/386,218	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/10/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1679** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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COOK, ALEX, MCFARRON, MANZO,
CUMMINGS & MEHLER, LTD.
Suite 2850
200 West Adams St.
Chicago, IL 60606

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OFFICE OF PETITIONS

In re Application of	:	
Mitsuaki Osame	:	
Application No. 10/386,229	:	ON PETITION
Filed: March 11, 2003	:	
Attorney Docket No. 0553-0354	:	

This is a decision on the petition, filed August 5, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 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 relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2673 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1]The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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HASSE GUTTAG & NESBITT
7577 CENTRAL PARK BLVD.
SUITE 316
MASON, OH 45040

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SEP 0 9 2003

OFFICE OF PETITIONS

In re Application of	:	
Ching Tang Wang et al	:	
Application No. 10/386,290	:	NOTICE
Filed: March 11, 2003	:	
Attorney Docket No. L&L-0002	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (703) 305-9285.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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PFIZER INC.
PATENT DEPARTMENT
MS8260-1611
EASTERN POINT ROAD
GROTON CT 06340

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OFFICE OF PETITIONS

In re Application of	:	
Cameron et al.	:	
Application No. 10/386,307	:	ON APPLICATION
Filed: March 11, 2003	:	FOR
Atty Docket No. PC23117A	:	PATENT TERM ADJUSTMENT

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 35 USC § 1.705 filed November 26, 2007. Applicants request that the determination of patent term adjustment be corrected from seven hundred (700) days to seven hundred twenty-four (724) days on the basis that the Office will take 3 years and 24 days to issue the patent. This paper was recently forwarded to the undersigned for consideration.

This application for patent term adjustment was timely filed with payment of the Issue Fee on November 26, 2007. The instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date. A decision is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is ordinarily required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.703(b). It is noted that at the time of this decision, the patent has not issued.

Applicants are given **TWO (2) MONTHS** from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within 3 years. A copy of this decision should accompany the request. Applicants may seek such consideration without payment

of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of § 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

Rather than file the request for reconsideration of Patent Term Adjustment at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term pursuant to 37 CFR 1.705(d). The USPTO notes that it does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent and accordingly, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Applicants have filed an application for patent term adjustment. The overpayment of $400 for a request for reinstatement of term reduced is being refunded to Deposit Account No. 16-1445.

The application file is being forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

Mail Date: 05/04/2010

Applicant	: Patrick Law	: DECISION ON REQUEST FOR
Patent Number	: 7636125	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/386,312	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/11/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **644** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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OVERLAND PARK, KS 66251-2100

Mail Date: 04/21/2010

Applicant	: Gangadharam Madhavarapu	: DECISION ON REQUEST FOR
Patent Number	: 7616647	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/386,316	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/11/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **2009** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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SEYFARTH SHAW LLP
131 S. DERBORN ST., SUITE 2400
CHICAGO IL 60603-5803

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OFFICE OF PETITIONS

In re Application of	:	
Daigo Morizumi et al	:	
Application No. 10/386,340	:	DECISION GRANTING PETITION
Filed: March 11, 2003	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. TJK/341	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 3, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an RCE and submission; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Final Rejection of April 25, 2005, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Technology Center AU 1774.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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FINNEGAN, HENDERSON, FARABOW
GARRETT & DUNNER, LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

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MAR 17 2008

In re Application of	:	
BENSIMON, Aaron et al.	:	
Application No. 10/386,354	:	DECISION ON PETITION
Filed: March 11, 2003	:	TO WITHDRAW
Attorney Docket No. **3715.0051-02**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 24, 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 Deborah Katz. Deborah Katz has been withdrawn as attorney or agent. All other attorneys or agent will remain of record. The correspondence address of record remains unchanged.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **DEBORAH KATZ**
UNITED STATES PATENT AND
TRADEMARK OFFICE
600 DULANY STREET, MDW 917D
ALEXANDRIA, VA 22314

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GARRETT & DUNNER LLP
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JUL 20 2009

OFFICE OF PETITIONS

In re Patent No. 7,368,234	: ON PETITIONS under
Issued: May 6, 2008	: 37 CFR 1.183 and ON REQUEST
Application No. 10/386,354	: FOR RECONSIDERATION OF
Filed: March 11, 2003	: PATENT TERM ADJUSTMENT
Dkt. No.: 3715.0051-02	:

This is a decision on the 1) Petition under 37 C.F.R. 1.183, requesting that the Office suspend the rules and consider on the merits a Request for Reconsideration of Patent Term Adjustment under 37 C.F.R. 1.705(d) filed more than two months from the date the above-referenced patent issued; and on the 2) Request for Determination of Patent Term Adjustment – Post Grant, both filed on October 30, 2008.

The petition under 37 CFR 1.183 is **dismissed**.

The request for reconsideration of patent term adjustment under 37 CFR 1.705(d) is **dismissed as untimely filed**.

Any request for reconsideration, whether directed to the decision on petition under 37 CFR 1.183 or to the decision on application for patent term adjustment under 37 CFR 1.705(d), must be filed within two months of the mailing date of this decision. Extensions of time under 37 CFR 1.136 are not permitted. See § 1.181(f).

BACKGROUND

On May 6, 2008, the above-identified application matured into U.S. Patent No. 7,368,234, with a revised patent term adjustment of 271 days. No request for reconsideration of the patent term adjustment indicated in the patent was filed within two months of the date the patent issued. Patentee now petitions under 37 C.F.R. § 1.183 to (i) suspend or waive the requirement of 37 C.F.R. § 1.705(d) that a Request for Reconsideration of Patent Term Adjustment be filed within two months of the date the patent issued; and (ii) consider the enclosed Request for Reconsideration of Patent Term Adjustment. Patentee references the recent decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. Sept. 30, 2008) as the basis for the petition.

ON PETITION UNDER 37 CFR 1.183
TO WAIVE THE TWO-MONTH REQUIREMENT OF 37 CFR 1.705(d)

The above-referenced patent issued on May 6, 2008. A request for reconsideration of the patent term adjustment indicated in the patent was not filed until October 30, 2008. Petitioner requests that the Office suspend the rules and consider on the merits the Request for Reconsideration of Patent Term Adjustment under 37 C.F.R. 1.705(d) even though it was untimely filed more than two months from the date the patent issued.

The relevant regulation, 37 CFR 1.705(d), provides that:

> If there is a revision to the patent term adjustment indicated in the notice of allowance, the patent will indicate the revised patent term adjustment. If the patent indicates or should have indicated a revised patent term adjustment, *any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued* and must comply with the requirements of paragraphs (b)(1) and (b)(2) of this section. Any request for reconsideration under this section that raises issues that were raised, or could have been raised, in an application for patent term adjustment under paragraph (b) of this section shall be dismissed as untimely as to those issues. (*emphasis* added).

By the express provisions of 37 CFR 1.705(d), a request for reconsideration of patent term adjustment must be filed within two months of the date the patent issued. It is undisputed that no such request for reconsideration was filed by July 6, 2008, the date two months from the date this patent issued, May 6, 2008. Rather, on October 30, 2008, one month after the issuance of a decision in Wyeth v. Dudas on September 30, 2008, petitioner filed the instant request for waiver of the two-month requirement.

37 CFR 1.183 provides that:

> In an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Director or the Director's designee, *sua sponte*, or on petition of the interested party, subject to such other requirements as may be imposed. Any petition under this section must be accompanied by the petition fee set forth in § 1.17(f).

35 U.S.C. 154, which requires the Office to provide the applicant one opportunity to request reconsideration of any patent term adjustment determination made by the Director, authorizes the Director to establish the procedures for requesting such reconsideration. Those procedures[1]

---

[1] 35 U.S.C. § 154(b)(3) provides that the USPTO shall: (1) prescribe regulations establishing procedures for the application for and determination of patent term adjustments under 35 U.S.C. § 154(b); (2) make a determination of any patent term adjustment under 35 U.S.C. § 154(b) and

include, pursuant to 37 CFR 1.705(d), setting a two-month period for filing a request for reconsideration of the revised patent term adjustment indicated in the patent.

Having considered petitioner's arguments, it is concluded that waiver of the two-month requirement is not warranted. The primary basis for requesting waiver set forth by petitioner is "the extraordinary situation presented by the recent decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. Sept. 30, 2008)." Specifically, petitioner states that in Wyeth, the U.S. District Court for the District of Columbia held that contrary to USPTO practice, a patentee is entitled to Patent Term Adjustment credit for examination delay under 37 CFR 1.702(b) in addition to any examination delay under 37 CFR 1.702(a), to the extent that the two periods of delay "do not occur on the same calendar day or days."

Petitioner has not explained why it could not have filed a Request for Reconsideration of Patent Term Adjustment within two months of the date the above-referenced patent issued. Apparently, petitioner's argument is that the basis for the Request for Reconsideration of Patent Term Adjustment is the Wyeth decision, which was entered more than two months after the issuance of their patent.

The fact that any relief ultimately granted in Wyeth would benefit patentee had they timely filed a request for reconsideration does not make the situation extraordinary. Wyeth followed the procedure set forth in 37 CFR 1.705 for requesting reconsideration of the patent term adjustment determination. Then, pursuant to 35 U.S.C. 154(b)(4)(A), Wyeth timely filed a complaint in District Court seeking judicial review of the Office's decision. A Memorandum Opinion and Order, the Wyeth decision of September 30, 2008, directed to the parties involved was issued.

Petitioner chose not to challenge their revised patent term adjustment within the two-month period. Petitioner's argument that they could not have filed a Request for Reconsideration of Patent Term Adjustment within two months of the date the above-referenced patent issued because the basis for the Request for Reconsideration of Patent Term Adjustment is the Wyeth

---

transmit a notice of that determination with the notice of allowance under 35 U.S.C. § 151; and (3) provide the applicant one opportunity to request reconsideration of any patent term adjustment determination. Pursuant to the mandate and authority in 35 U.S.C. § 154(b)(3), the USPTO promulgated 37 C.F.R. § 1.705, which provides that: (1) the notice of allowance will include notification of any patent term adjustment under 35 U.S.C. § 154(b)(37 C.F.R. § 1.705(a)); (2) any request for reconsideration of the patent term adjustment indicated in the notice of allowance (except as provided in 37 C.F.R. § 1.705(d)) must be by way of an application for patent term adjustment filed no later than the payment of the issue fee and accompanied by (inter alia) the fee set forth in 37 C.F.R. § 1.18(e)(37 C.F.R. § 1.705(b)); and (3) if the patent indicates or should have indicated a revised patent term adjustment, any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued.

decision, which was entered more than two months after the issuance of their patent, is not persuasive.

Petitioner could have filed a Request for Reconsideration of Patent Term Adjustment as Wyeth did. It is acknowledged that petitioner may have chosen not to file a request for reconsideration based on a conclusion that the Office's interpretation of 35 U.S.C. § 154(b)(2)(A) was correct. Nonetheless, the fact that the District Court has now issued an Opinion contrary to the Office's interpretation does not make the situation extraordinary. This is not unlike any other situation where a patentee (or applicant) challenges a final agency decision and the decision upon judicial review could have had applicability to another patentee (or applicant) had they taken such action. In fact, many patentees may be in the same situation as petitioner with respect to the Wyeth decision. In addition, given that the law only allows 180 days for both the filing of a petition and for the Office's consideration of that petition, petitioner's unexplained delay in filing the petition weighs against them.

Petitioner simply fails to articulate how their failure to file a request for reconsideration of patent term adjustment within two months of the issue date of the patent was due to an extraordinary situation. Petitioner cannot rely on Wyeth's actions or the Wyeth decision to establish that their situation was extraordinary.

The contention that a decision is in error is a basis for a timely request for review of the decision but does not justify a delay in seeking review of such decision.

The Office provided notice that petitions under 37 CFR 1.182 and 1.183 or requests for certificate of corrections under 35 USC 354 and Sec. 1.323 or 35 U.S.C. 255 and Sec. 1.324 are not substitute *fora* to obtain reconsideration of a patent term adjustment determination indicated in a notice of allowance if applicant fails to submit a request for reconsideration within the time period specified in Sec. 1.705(b) or to obtain reconsideration of a patent term adjustment determination indicated in a patent if a patentee fails to submit a request for reconsideration within the time period specified in Sec. 1.705. See 69 Fed. Reg. 21704, 21707 (April, 22, 2004).

In view thereof, the petition under 37 CFR 1.183 for waiver of the two-month requirement of 37 CFR 1.705(d) is **dismissed**.

Accordingly, consideration now turns to the Request for Reconsideration of Patent Term Adjustment under 37 CFR 1.705(d).

ON REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(d)

This is a decision on the "DETERMINATION OF PATENT TERM ADJUSTMENT – POST GRANT," filed October 30, 2008. Therein, patentee requests correction of the patent term adjustment (PTA) indicated in the patent to 895 days.

On May 6, 2008, the above-identified application matured into U.S. Patent No. 7,368,234 with a revised patent term adjustment of 271 days. The instant request for reconsideration was filed more than five months after the issuance of the patent, on October 30, 2008.

No error in the printing of the patent has been shown. The patent term adjustment indicated on the patent reflects the Office's determination of patent term adjustment shown in the PAIR system for this application. 37 CFR 1.705(d) provides the sole avenue before the Office for requesting reconsideration of the Office's determination of patent term adjustment indicated in the patent. Moreover, § 1.705(d) states that "any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued and must comply with the requirements of paragraphs (b)(1) and (b)(2) of this section." Since the request was not filed within two months of the issue date of the patent, the request is properly **dismissed as untimely filed**.

CONCLUSION

It is determined that waiver of the requirement pursuant to 37 CFR 1.183 is not warranted. Accordingly, the request for reconsideration of the patent term adjustment under 37 CFR 1.705(d) filed more than two months after the issue date of the patent is dismissed as untimely filed.

Receipt of the fees required for the petition under 37 CFR 1.183 and the application for patent term adjustment is acknowledged.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JAN 25 2007

OFFICE OF PETITIONS

MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH, NC 27627

In re Patent No. 7,029,832	:	
Issue Date: April 18, 2006	:	
Application No. 10/386,356	:	ON PETITION
Filed: March 11, 2003	:	
Attorney Docket No. 5470-383	:	

This is a decision on the petition filed June 14, 2006, which is being treated as a petition under 37 CFR 3.81(b)[1] to correct the assignee's name on the front page of the above-identified patent by way of 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 matter is being referred to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Irvin Dingle
Petitions Examiner
Office of Petitions

[1] See Official Gazette of June 22, 2004

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Paper No. 7

Jack D. Todd
Morris, Manning & Martin, LLP
1600 Atlanta Financial Center
3343 Peachtree Road
Atlanta, GA 30326-1044

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MAR 2 5 2004
OFFICE OF PETITIONS

In re Application of
Hillerbrand, Padmalyan, Pauly, Park, Kumar, Glasgow, Murakonda, Sebel, Velmuran, and Basu
Application No.: 10/386,362
Filed: March 10, 2003
Attorney Docket No: 12361-40442
For: MODELING AND USING COMPUTER RESOURCES OVER A HETEROGENEOUS DISTRIBUTED NETWORK USING SEMANTIC ONTOLOGIES

: DECISION ACCORDING RULE 47(a) STATUS

This is in response to the renewed petition under 37 CFR 1.47(a), filed March 15, 2004.

The petition is **GRANTED**.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

The above-cited application was filed on March 10, 2003, without a proper oath or declaration. Accordingly, a "Notice to File Missing Parts of Nonprovisional Application" was mailed on May 9, 2003, requiring an executed oath or declaration, a surcharge for the late filing of the oath or declaration, and a filing fee. A petition under 37 CFR 1.47 was filed on December 11, 2003, and dismissed by a decision mailed February 12, 2004. The instant renewed petition was filed on March 15, 2004.

Petitioner has shown that inventors Hillerbrand and Padmalyan have refused to join the prosecution of the application and that inventor Kumar has either constructively refused to join the prosecution of the application or is unavailable. The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This application will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries should be directed to the undersigned at (703) 305-0010.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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UNITED STATES PATENT AND TRADEMARK OFFICE
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Eric Hillerbrand
1100 Edison Garden
Atlanta, GA 30324

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MAR 2 5 2004
OFFICE OF PETITIONS

In re Application of
Hillerbrand, Padmalyan, Pauly, Park, Kumar, :
Glasgow, Murakonda, Sebel, Velmuran, and Basu :
Application No. 10/386,362 : LETTER
Filed: March 10, 2003 :
Attorney Docket Number: 12361-40442
For: MODELING AND USING COMPUTER :
RESOURCES OVER A HETEROGENEOUS
DISTRIBUTED NETWORK USING SEMANTIC
ONTOLOGIES

Dear Mr. Hillerbrand:

You are named as a joint inventor in the above-identified United States reissue 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 joint inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Kenya A. McLaughlin at (703) 305-0010. 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).

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Jack D. Todd
Morris, Manning & Martin, LLP
1600 Atlanta Financial Center
3343 Peachtree Road
Atlanta, GA 30326-1044

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OFFICE OF PETITIONS

Sujith Kumar
3125 Colonial
Atlanta, GA 30341

In re Application of
Hillerbrand, Padmalyan, Pauly, Park, Kumar, :
Glasgow, Murakonda, Sebel, Velmuran, and Basu :
Application No. 10/386,362 : LETTER
Filed: March 10, 2003 :
Attorney Docket Number: 12361-40442
For: MODELING AND USING COMPUTER :
RESOURCES OVER A HETEROGENEOUS
DISTRIBUTED NETWORK USING SEMANTIC
ONTOLOGIES

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Technology Center 2100

Dear Mr. Kumar:

You are named as a joint inventor in the above-identified United States reissue 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 joint inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Kenya A. McLaughlin at (703) 305-0010. 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).

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Jack D. Todd
Morris, Manning & Martin, LLP
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Paper No.

Jack D. Todd
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APR 26 2005

Technology Center 2100

In re Application of:
Hillerbrand, et al.
Application No. 10/386,362
Filed: March 10, 2003
For: MODELING AND USING COMPUTER RESOURCES OVER A HETEROGENEOUS DISTRIBUTED NETWORK USING SEMANTIC ONTOLOGIES

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed December 06, 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 December 06, 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: enLEAGUE SYSTEMS, INC.
Two Coca-Cola Plaza
CCP Suite 208
Atlanta, GA 30313

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Paper No. 7

HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD MA 01742-9133

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OFFICE OF PETITIONS

In re Application of
Proctor, Amalfitano & Ryu
Application No. 10/386,364
Filed: March 10, 2003
Attorney Docket No. 2479.2149-001
For: ANTENNA ADAPTATION COMPARISON METHOD FOR HIGH MOBILITY

: DECISION ACCORDING STATUS
: UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed September 22, 2003 (certificate of mailing date September 15, 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 2800 for examination in due course.

Telephone inquiries should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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JAMES A. PROCTOR, JR.
258 SEA VIEW STREET
MELBOURNE BEACH FL 32951

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OCT 2 7 2003

OFFICE OF PETITIONS

In re Application of
Proctor, Amalfitano & Ryu
Application No. 10/386,364
Filed: March 10, 2003
Attorney Docket No. 2479.2149-001
For: ANTENNA ADAPTATION COMPARISON METHOD FOR HIGH MOBILITY

LETTER

Dear Mr. Proctor:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 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

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530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD MA 01742-9133

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JAN 18 2007

OFFICE OF PETITIONS

In re Application of	:	
PROCTOR.	:	
Application No. 10/386,364	:	DECISION ON PETITION
Filed: March 10, 2003	:	TO WITHDRAW
Attorney Docket No. 2479.2149-001	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 11, 2006.

The request is **NOT APPROVED**.

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 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 KOENIG, PC**
UNITED PLAZA, SUITE 1600
30 SOUTH 17TH STREET
PHILADELPHIA, PA 19103

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OFFICE OF PETITIONS

Patrick W. Rasche
Armstrong Teasdale LLP
Suite 2600
One Metropolitan, Sq.
St Louis MO 63102

In re Application of	:	
Helmut Kahl et al.	:	
Application No. 10/386,368	:	DECISION ON PETITION
Filed: March 11, 2003	:	PURSUANT TO
Attorney Docket Number:	:	37 C.F.R. § 1.137(B)
M/EMI-019-US	:	
Title: DEVICE HOUSING HAVING	:	
A SHIELDING GASKET OR WALL	:	
COMPRISING A CONDUCTIVE	:	
COATING	:	

This is a decision on the petition filed February 5, 2008, pursuant to 37 C.F.R. § 1.137(b), to revive the above-identified application.

The petition pursuant to 37 C.F.R. § 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R § 1.113 in a timely manner to the final Office action mailed March 10, 2005, which set a shortened statutory period for reply of three months. No extensions of time under the provisions of 37 C.F.R § 1.136(a) were obtained, and no response was received. Accordingly, the above-identified application became abandoned on June 11, 2005. A notice of abandonment was mailed on May 16, 2006.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

37 C.F.R. § 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional. Since the statement contained in this petition varies from the language required by 37 C.F.R. § 1.137(b)(3), the statement contained in this petition is being construed as the statement required by 37 C.F.R. § 1.137(b)(3) and Petitioner must notify the Office if this is not a correct interpretation of the statement contained in this petition.

With this petition, Petitioner has submitted the petition fee, a Request for Continued Examination (RCE) along with the associated fee, an amendment, and a statement that is being construed as the proper statement of unintentional delay.

The first three requirements of Rule 1.137(b) have been met. The fourth requirement is not applicable, as a terminal disclaimer is not required.

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the submission under 37 C.F.R. § 1.114 - the amendment received on February 5, 2008 - can be processed.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the revival has been acknowledged by the Technology Center in response to this

decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.**

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[1] All other inquiries concerning the status of the application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

---

1 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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PATRICK W. RASCHE
ARMSTRONG TEASDALE LLP
SUITE 2600
ONE METROPOLITAN, SQ.
ST LOUIS MO 63102

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JAN 04 2010

In re Application of	:	
Kahl et al.	:	DECISION ON PETITION
Application No. 10/386,368	:	TO WITHDRAW
Filed: March 11, 2003	:	FROM RECORD
Attorney Docket No. M/EMI-019-US	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 22, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office will require the practitioner(s) to certify that he, she or they have: (1) given reasonable notice to the client, prior to the expiration of the reply period, which the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any replies that may be due and the time frame within which the client must respond, pursuant to 37 CFR 10.40 (c).

The request was signed by Patrick W. Rasche on behalf of all attorneys/agents of record. All attorneys/agents have been withdrawn. Applicants are reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first-named inventor, Helmut Kahl, at the address indicated below.

There is an outstanding Office action, mailed October 9, 2009, which requires a reply from the applicants. Failure to timely do so will result in abandonment of the instant application.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-3206. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Liana Walsh
Petitions Examiner
Office of Petitions

cc: HELMUT KAHL
MOTZENER STRASSE 17
BERLIN 12277 DE GERMANY

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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CROMPTON, SEAGER & TUFTE, LLC
1221 NICOLLET AVENUE
SUITE 800
MINNEAPOLIS MN 55403-2420

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JUN 28 2005

OFFICE OF PETITIONS

In re Application of	:	
Stephen C. Jacobsen	:	
Application No. 10/386,375	:	DECISION ON PETITION
Filed: 10 March, 2003	:	
Atty Dkt. 1001.1875112	:	

This is a decision on the petition filed on 11 May, 2005, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 25 June, 2004, for failure to file a proper reply to the non-final Office action mailed on 24 March, 2004, which set a three (3) month shortened statutory period for reply. No extensions of the time for reply were obtained in accordance with 37 CFR 1.136(a). Notice of Abandonment was mailed on 1 February, 2005.

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[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continuing examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

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.[2] 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.

Receipt of the revocation and power of attorney and change of correspondence address filed on 13 May, 2005, is acknowledged.

Receipt of the amendment filed on 11 May, 2005, is acknowledged.

The application is being referred to Technology Center Art Unit 2829 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

Cf: Notice Regarding Change of Power of Attorney
Notice of Acceptance of Power of Attorney

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[2] See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1208 Off. Gaz. Pat. Office 63, 103 (October 21, 1997).

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BIRMINGHAM, MI 48009

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OFFICE OF PETITIONS

In re Application of	:	
Clifton C. Haggard et al	:	
Application No. 10/386,385	:	NOTICE
Filed: March 11, 2003	:	
Attorney Docket No. 67,063-006	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (703) 305-9285.

This application file is being referred to Technology Center AU 3728.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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MORRISON & FOERSTER LLP
12531 HIGH BLUFF DRIVE
SUITE 100
SAN DIEGO, CA 92130-2040

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SEP 25 2008

In re Application of	:	
Jian-Guo Geng	:	
Application No. 10/386,386	:	DECISION ON PETITION
Filed: March 10, 2003	:	
Attorney Docket No. 549132000100	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 2, 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 timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of July 12, 2007. A Notice of Abandonment was mailed February 6, 2008.

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.

Since the amendment submitted does not *prima facie* place the application in condition for allowance, the reply required must be a Notice of Appeal (and appeal fee), RCE, or the filing of a continuing application under 37 CFR 1.53(b).

The Examiner has responded to the Amendment After Final with an Advisory Action (copy enclosed).

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 Joan Olszewski at (571) 272-7751.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

Enclosure: Examiner's Advisory Action

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/386,386	Applicant(s) GENG, JIAN-GUO	
	Examiner XIAOZHEN XIE	Art Unit 1646	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 02 June 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☐ The period for reply expires _____months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.
   NOTE: *See Continuation Sheet*. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: _____.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☒ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

Continuation of 3. NOTE: The claims have been amended to recite treating a solid tumor selected from the group consisting of adenoid cystic carcinoma of salivary gland and hepatocellular carcinoma, which is different in scope from that of previously presented, and which necessitates new ground of rejection. Therefore, the amendment is not entered.

Continuation of 11. does NOT place the application in condition for allowance because:

The claims have been amended to delete treating solid tumors of bladder squamous carcinoma, colon adenocarcinoma and bladder transitional cell carcinoma, and now recite treating a solid tumor selected from adenoid cystic carcinoma of salivary gland and hepatocellular carcinom. A further full search and consideration would have to be made, as well as new grounds of rejection, if the amendment were entered.

In addition, Applicant provides evidence after a final action, alleging that the Geng et al. reference did not become publicly available until after March 8, 2001. The evidence will not be entered because Applicant failed to provide a showing of good and sufficient reasons why the evidence were not earlier presented. Further, the evidence are not sufficient to prove that the Geng et al. reference did not become publicly available until after March 8, 2001, because the publisher (FASEB J.) clearly indicates March 7, 2001 to be the publishing date (see Attachment A provided by Applicant). Also, the British Library document (Attachment B provided by Applicant) clearly indicates that they can only provide the date that the British library made this item available for public use; for actual date of publication, need to contact the publisher.

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DEC 2 3 2008

OFFICE OF PETITIONS

In re Application of	:	
Jian-Guo Geng	:	
Application No. 10/386,386	:	DECISION ON PETITION
Filed: March 10, 2003	:	
Attorney Docket No. 549132000100	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed November 25, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the final Office action mailed July 12, 2007. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on October 13, 2007. A Notice of Abandonment was mailed February 6, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $770.00; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Joan Olszewski at (571) 272-7751.

This application is being referred to Technology Center AU 1646 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.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

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TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

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JUL 1 1 2006

OFFICE OF PETITIONS

In re Application of	:	
Ginesi et al.	:	DECISION ON PETITION
Application No. 10/386,391	:	TO WITHDRAW
Filed: March 10, 2003	:	FROM RECORD
Attorney Docket No. 020510-003900US	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 27, 2004 and August 16, 2005.

The request filed as of September 27, 2004 is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Kenneth Allen on behalf of all attorneys of record who are associated with Customer Number 20350. All attorneys/agents associated with Customer Number 20350 have been withdrawn. Applicants are reminded that there is no attorney of record at this time.

The request filed as of August 16, 2005 is **NOT APPROVED**.

A review of the file record indicates that Kris Kalidindi does not have power of attorney in this patent application nor is there any statement or evidence of record of employment in or otherwise being engaged in the proceedings in this patent application. Accordingly, the request to withdraw under 37 CFR.§ 1.36 is not applicable.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named inventor; or (2) an intervening assignee of the entire interest. All future communications from the Office will continue to be directed to Kris Kalidindi at the first below-listed address until otherwise properly notified by the applicants.

The Revocations/Appointments of Power of Attorney or Authorization of Agents submitted on September 2, 2005 and March 7, 2006 were incomplete, as they did not include the required Statement under 37 CFR 3.73(b). A Notice Regarding Power of Attorney is enclosed to the appropriate parties.

Telephone inquires concerning this decision should be directed to Petitions Examiner Liana Chase at (571) 272-3206. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

David Bucci
Petitions Examiner
Office of Petitions

Cc:

KRIS. V. KALIDINDI, ESQ.
POTOMAC PATENT GROUP, PLLC
2010 CORPORATE RIDGE, SUITE 700
MCLEAN, VA 22102

CIENA CORPORATION
1201 WINTERSON ROAD
LINTHICUM, MD 21090

MEREK, BLACKMON & VOORHEES, LLC
673 SOUTH WASHINGTON STREET
ALEXANDRIA, VA 22314

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OFFICE OF PETITIONS

In re Application of	:	
Alberto Ginesi, et. al.	:	
Application No. 10/386,391	:	DECISION ON PETITION
Filed: March 10, 2003	:	
Attorney Docket No. N/A	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 16, 2008, to revive the above-identified application.

The application became abandoned for failure to reply in a timely manner to the Office action under Ex parte Quayle, 1935 Dec. Comm'r Pat. 11 (1935), mailed July 24, 2006. A Notice of Abandonment was mailed on December 20, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1,540, and (3) a proper statement of unintentional delay. Therefore, the petition is **granted**.

The Revocation/Appointment of Power of Attorney or Authorization of Agent filed on January 16, 2008 has been accepted and made of record. A Notice of Acceptance is enclosed with this decision.

This application is being referred to Technology Center Art Unit 2611, for appropriate action by the Examiner in the normal course of business.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

Enclosure: Notification of Acceptance of Revocation/Appointment of Power of Attorney or Authorization of Agent

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/386,391	03/10/2003	Alberto Ginesi	

CONFIRMATION NO. 5382

POA ACCEPTANCE LETTER

21919
MEREK, BLACKMON & VOORHEES, LLC
673 S. WASHINGTON ST.
ALEXANDRIA, VA 22314

OC000000031431001

Date Mailed: 08/07/2008

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/16/2008.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/amsmith/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD, MA 01742-9133

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OFFICE OF PETITIONS

In re Application of	:
James A. Proctor, Jr.	:
Application No. 10/386,392	: DECISION GRANTING PETITION
Filed: March 10, 2003	: UNDER 37 CFR 1.47(b)
For: ANTENNA ADAPTATION TO MANAGE	:
THE ACTIVE SET TO MANIPULATE SOFT	:
HAND-OFF REGIONS	

This is in response to the "Petition Under 37 CFR 1.47(b)," December 15, 2003.

The petition is granted.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the declaration of David J. Thibodeau, Jr., establishes that the inventor was mailed the application papers, including the specification, claims and drawings, but failed to respond to the request that he sign the declaration. In addition, petitioner has shown that InterDigital Acquisition Corp. has a proprietary interest in the above-identified application with the copy of the employment agreement showing that the inventor had an obligation to assign any patent rights to Tantivy Communications, Inc. and the copy of the assignment between Tantivy Communications, Inc. and InterDigital Acquisition Corp.; and by the memorandum of law establishing that a court of competent jurisdiction would award title to InterDigital Acquisition Corp. The petition fee has been paid. Lastly, petitioner has submitted a declaration in compliance with 37 CFR 1.63 and 1.64 and demonstrated that petitioner has shown that such action is necessary to prevent irreparable damage.

This application and papers have been reviewed and found in compliance with 37 CFR 1.47(b). This application is hereby accorded Rule 1.47(b) status.

As provided in Rule 1.47(b), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the Declaration. Notice of the filing of this application will also be published in the Official Gazette.

The application will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this communication should be directed to the undersigned at (703)306-9200.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

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Paper No. 6

Hamilton, Brook, Smith & Reynolds, P.C.
530 Virginia Road
P. O. Box 9133
Concord, MA 01742-9133

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OFFICE OF PETITIONS

In re Application of	:	
James A. Proctor, Jr., et al.	:	
Application No. 10/386,393	:	ON PETITION
Filed: March 10, 2003	:	
Attorney Docket No. 2479.2152-001	:	

This is in response to the petition under 37 CFR 1.47(a), filed November 10, 2003.

The petition is granted.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in 37 CFR 1.47(a), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being forwarded to Technology Center 2800 for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 306-3475.

Marianne E. Morgan
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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OFFICE OF PETITIONS

In re Application of	:	
Clifton C. Haggard et al	:	
Application No. 10/386,398	:	NOTICE
Filed: March 11, 2003	:	
Attorney Docket No. 67,063-008	:	

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) 305-9282.

This application file is being referred to Technology Center AU 3728.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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LANDO & ANASTASI, LLP
ONE MAIN STREET, SUITE 1100
CAMBRIDGE, MA 02142

Mail Date: 04/20/2010

Applicant	: Ganesh Venkataraman	: DECISION ON REQUEST FOR
Patent Number	: 7575886	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/386,402	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/11/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1447** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Boston, MA 02199-7160

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OFFICE OF PETITIONS

In re Patent No. 7,381,399	:
Babich et al.	: DECISION UPON REMAND AND
Issue Date: June 3, 2008	: RECONSIDERATION OF
Application No. 10/386,403	: PATENT TERM ADJUSTMENT
Filed: March 11, 2003	: AND NOTICE OF INTENT
Attorney Docket No. 346715-0553	: TO ISSUE CERTIFICATE OF
Title: Technetium-Dipyridine	: CORRECTION
Complexes and Methods of Use	:
threrof	

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 thirteen hundred and three (1303) 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 thirteen hundred and three (1303) 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 : 7,381,399 B2

DATED : June 3, 2008 **DRAFT**

INVENTOR(S) : Babich 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 634 days

Delete the phrase "by 634 days" and insert – by 1303 days--

PALM INTRANET

Day : Friday
Date: 4/2/2010
Time: 11:58:48

PTA Calculations for Application: 10/386403

Application Filing Date:	03/11/2003	PTO Delay (PTO):	815
Issue Date of Patent:	06/03/2008	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	181
Post-Issue Petitions:	0	Total PTA (days):	1303
PTO Delay Adjustment:	669		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
60	04/02/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	669		
54.5	05/14/2008	PTA 36 MONTHS	133		
54	06/03/2008	PATENT ISSUE DATE USED IN PTA CALCULATION			
53	05/01/2008	EXPORT TO FINAL DATA CAPTURE			
52	04/28/2008	FINISHED INITIAL DATA CAPTURE			
51	04/30/2008	DISPATCH TO FDC			
50	04/30/2008	APPLICATION IS CONSIDERED READY FOR ISSUE			
49	04/29/2008	ISSUE FEE PAYMENT VERIFIED			
48	04/29/2008	ISSUE FEE PAYMENT RECEIVED			
47	02/05/2008	EXPORT TO INITIAL DATA CAPTURE			
46	01/31/2008	MAIL NOTICE OF ALLOWANCE			
45	01/30/2008	ISSUE REVISION COMPLETED			
44	01/30/2008	DOCUMENT VERIFICATION			
43	01/24/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
42	01/24/2008	CASE DOCKETED TO EXAMINER IN GAU			
41	01/18/2008	NOTICE OF ALLOWABILITY			
40	12/04/2007	DATE FORWARDED TO EXAMINER			
39	11/27/2007	RESPONSE AFTER NON-FINAL ACTION			
38	08/27/2007	MAIL NON-FINAL REJECTION			
37	08/20/2007	NON-FINAL REJECTION			
36	06/29/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
35	06/29/2007	REFERENCE CAPTURE ON IDS			
34	06/29/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		31	31

33	06/29/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
32	06/05/2007	DATE FORWARDED TO EXAMINER			
31	05/29/2007	RESPONSE AFTER NON-FINAL ACTION		89	29
30	05/29/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
29	12/01/2006	MAIL NON-FINAL REJECTION			
28	11/13/2006	NON-FINAL REJECTION			
27	09/06/2006	DATE FORWARDED TO EXAMINER			
26	08/24/2006	RESPONSE TO ELECTION / RESTRICTION FILED		61	24
25	08/24/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
24	03/24/2006	MAIL RESTRICTION REQUIREMENT	682		-1
23	03/20/2006	REQUIREMENT FOR RESTRICTION / ELECTION			
22	02/17/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
21	08/11/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
20	06/16/2003	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
19	01/28/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
18	08/11/2004	REFERENCE CAPTURE ON IDS			
17	12/30/2005	CASE DOCKETED TO EXAMINER IN GAU			
16	11/15/2005	CORRESPONDENCE ADDRESS CHANGE			
15	11/15/2005	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
14.7	02/17/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	02/17/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
13.7	08/11/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
13	08/11/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
12.7	06/16/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
12	06/16/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
11	09/05/2003	APPLICATION DISPATCHED FROM OIPE			
10	09/05/2003	APPLICATION IS NOW COMPLETE			

9	07/18/2003	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM			
8	07/18/2003	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
7	05/05/2003	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
4	04/29/2003	CLEARED BY L&R (LARS)			
3	04/23/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
2	03/26/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	03/11/2003	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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